



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 03 2015

OFFICE OF
AIR AND RADIATION

The Honorable Evan H. Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of July 10, 2015, regarding the National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production final rule that was signed by the U.S. Environmental Protection Agency Administrator Gina McCarthy on May 28, 2015 and published in the Federal Register on June 30, 2015.

I appreciate the detailed points raised in your letter. We understand that the two ferroalloys production facilities, Eramet Marietta and Felman Production, will need a considerable amount of time to install controls to comply with the standards. Therefore, in the final rule we provided the maximum time of two years allowed under section 112(f) of the Clean Air Act for the facilities to comply with the rule. However, we are aware one or both facilities might need more than two years to achieve full compliance. Therefore, we are discussing this issue with other EPA Offices, including the Office of General Counsel and Office of Enforcement and Compliance Assurance, to explore options to provide a longer compliance period.

Additionally, in your letter, you suggest that the final rule should be considered a major regulation under the Congressional Review Act (CRA). According to the CRA, the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget determines major rule status based on finding a rule results in or is likely to result in certain statutory criteria being met [5 USC 804(2)], including if the rule would have significant adverse impacts on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. After extensive work with both affected entities, we believe the current rule will not result in significant adverse effects on the ability of Eramet Marietta and Felman Production to compete with foreign-based enterprises in the domestic and export markets.

We greatly appreciate all the input we have received during the rulemaking process from the public, the states, industry stakeholders, environmental groups, elected officials and many others on the various issues. We considered all the input we received in developing the final rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or at (202)-564-2998.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Janet G. McCabe
Acting Assistant Administrator

United States Senate

WASHINGTON, DC 20510

July 10, 2015

The Honorable Janet McCabe
Acting Assistant Administrator
Office of Air & Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

**Re: National Emission Standards for Hazardous Air Pollutants: Ferroalloys
Production
Docket No. EPA-HQ-OAR-2010-0895**

Dear Assistant Administrator McCabe:

We write to follow up to our prior meetings and contacts during which we discussed the Environmental Protection Agency's rule entitled, "National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production" ("the final rule") (76 FR 72508). EPA finalized the rule on May 28, 2015. We reiterate the importance of cooperative dialogue among the Agency and stakeholders to ensure that the rule is technically and financially feasible for the impacted companies, Eramet Marietta and Felman Production.

EPA committed to develop a reasonable rule that drives environmental improvement in a manner that the companies can comply with sensible investment. You assured us of the Agency's efforts to honor that commitment and that the agency recognizes the significant labor and defense implications of the proposal should technical requirements render continuing operation in the United States infeasible. You also reported that the data and alternatives offered by the companies was helpful to the EPA in developing the final rule.

We appreciate EPA's efforts to take a balanced approach to the final rule, but we are concerned that the two-year compliance period may make it impossible for our constituent companies to make the necessary investments to meet the required standards. Given the extensive process undertaken by both EPA and the companies to achieve a balanced rule, it would be extremely disappointing if the companies are forced to stop operating because they lacked the time and/or resources to implement new emissions controls within the timeframe in the final rule.

We believe that the final rule should be considered a major regulation under the Congressional Review Act because of its impact on "the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets." *See* 5 U.S.C. 802(2)(C). Such a designation would have the incidental benefit of a longer effective compliance period. More importantly, even if the final rule is not designated as a major regulation, we would ask that you give full consideration to providing a longer compliance period through a consent decree or other procedural mechanism. This would make sure that the hard work invested by the companies and

the EPA will result in both continued operations at the two companies and the emission reductions sought by the final rule.

We want to ensure that the months of valuable, cooperative communication among the EPA, Eramet Marietta and Felman Production were not misspent. We reemphasize the importance of an inclusive dialogue to produce a rule that benefits all Americans without sacrificing the important contribution these companies make to communities in our states and to our constituents.

Sincerely,



Shelley Moore Capito
United States Senator



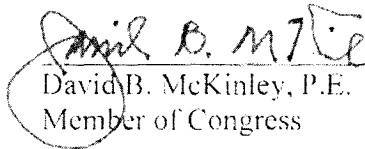
Joe Manchin III
United States Senator



Rob Portman
United States Senator



Sherrod Brown
United States Senator



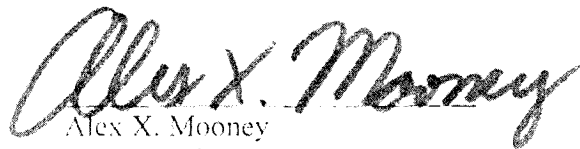
David B. McKinley, P.E.
Member of Congress



Bill Johnson
Member of Congress



Evan H. Jenkins
Member of Congress



Alex X. Mooney
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 22 2015

OFFICE OF
AIR AND RADIATION

The Honorable Evan Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of July 28, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the Ozone National Ambient Air Quality Standards (NAAQS) proposed rule. The Administrator asked that I respond on her behalf.

As you know, the EPA sets NAAQS to protect public health and the environment from six common pollutants, including ground-level ozone. The Clean Air Act requires the EPA to review these standards every five years to ensure that they are sufficiently protective. On November 25, 2014, the EPA proposed to strengthen the NAAQS for ground-level ozone, based on extensive scientific evidence about ozone's effects.

As you note we have made great progress in improving air quality and public health in the United States, and it has not come at the expense of our economy. Indeed, over the past 40 years, air pollution has decreased by nearly 70 percent while the economy has tripled. The recently adopted clean air regulations you mention will certainly improve ozone levels across the country, and as a result, we expect more areas to have improved air quality in the future.

I appreciate your comments on the ozone proposal and have asked my staff to place your letter in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", is positioned above the typed name.

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

July 28, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington D.C., 20460

Dear Administrator McCarthy,

We are concerned that the Environmental Protection Agency (EPA) has proposed new ozone National Ambient Air Quality Standards (NAAQS) before completing implementation of the existing ozone standards. Between 1980 and 2013, U.S. Gross Domestic Product, population, and energy consumption grew substantially, while air emissions dropped significantly. Moving forward, EPA projects air quality will continue to substantially improve over the next ten years through various federal controls including state and industry efforts to implement the current 2008 ozone standard. EPA can support economic growth while continuing the decades-long trend towards cleaner air by maintaining the existing 75 ppb ozone standard and allowing time for our constituents to fully implement current clean air requirements.

EPA data indicates that the air is cleaner today than it has been in thirty years, progress due in large part to control measures associated with past NAAQS standards. This success shows that ozone NAAQS when given an opportunity to be fully implemented produce significant reductions. Companies seeking to build or expand facilities invest significantly in control processes. If a proposed standard cannot be met, nonattainment areas would be required to implement costly ozone-reduction measures and permitting requirements that could prove technologically difficult. Moreover, EPA acknowledges that there are alternative views on health effects evidence and risk information. Due to all these uncertainties, allowing the current standard to take full effect would alleviate any perceived concerns with measured scientific data and allow EPA time to further consider those uncertainties while still protecting air quality.

EPA's ozone rules affect all aspects of our communities and municipalities, including consumers and vital industries. EPA openly acknowledges that to meet national air quality standards a partnership is required between the federal government, states, localities and industry. Yet, the timing of EPA's proposal could strain state and local government resources. EPA delayed implementing the current 2008 standard for two years while it decided whether to reconsider that standard. EPA is just now providing states with guidance to implement the 2008 standard, and the state-federal clean air partnership should be allowed an opportunity to work.

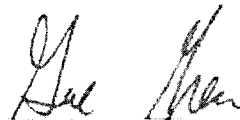
Indeed, states are currently investing substantial administrative resources to make up lost time. It could prove burdensome to force states to implement a new ozone standard at the same time they are only starting to implement the current one. We believe allowing sufficient time for existing measures to take hold, before setting a new ozone standard, would yield the desired results EPA is currently seeking.

While we recognize that EPA is under court order to complete its review of the ozone NAAQS, EPA has requested comment on maintaining the existing standard. We believe the full implementation of a standard of 75 ppb is in line with EPA goals and the ideals set forth under the Clean Air Act and, could possibly, by the next five year review, achieve lower emissions standards than originally sought. It is clear from the past that ozone standards can only achieve the desired results if they are allowed time to be fully implemented. EPA should keep in mind the newly laid out requirements in the delayed 2008 ozone NAAQS when considering whether to finalize a new, potentially stricter, standard. Therefore, we request EPA allow time for the benefits of the current ozone standard to become effective by retaining the current ozone standard.



Robert E. Latta
Member of Congress

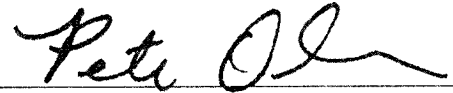
Sincerely,



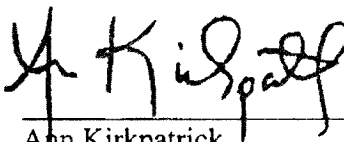
Gene Green
Member of Congress



Mike Kelly
Member of Congress



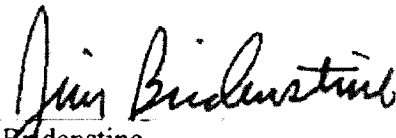
Pete Olson
Member of Congress



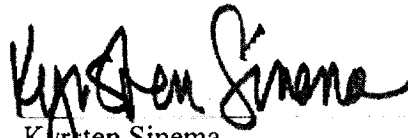
Ann Kirkpatrick
Member of Congress



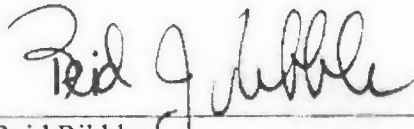
Kevin Cramer
Member of Congress



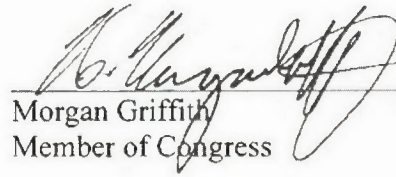
Jim Bridenstine
Member of Congress



Kyrsten Sinema
Member of Congress



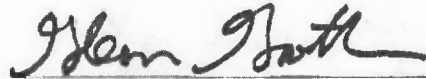
Reid Ribble
Member of Congress



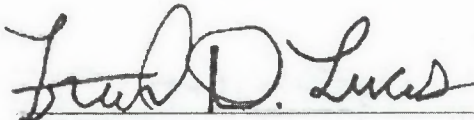
Morgan Griffith
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Bill Johnson
Member of Congress



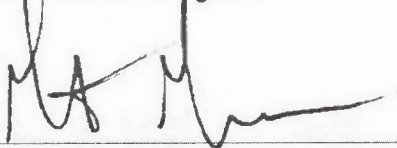
Glenn Grothman
Member of Congress



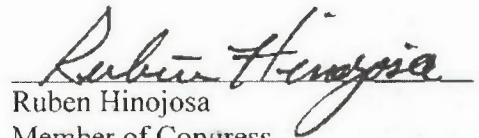
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Member of Congress



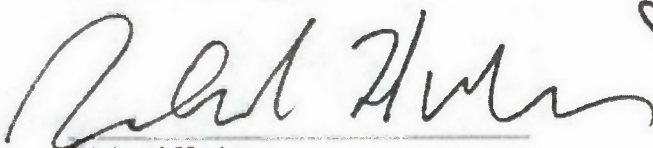
Rodney Davis
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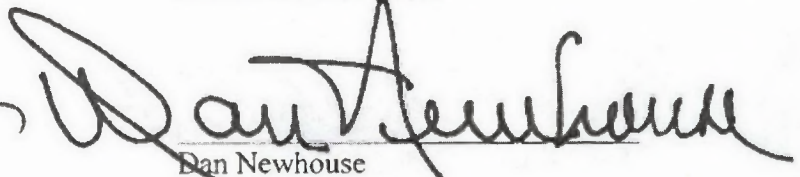
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Member of Congress



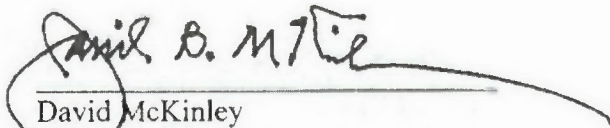
Ruben Hinojosa
Member of Congress



Richard Hudson
Member of Congress



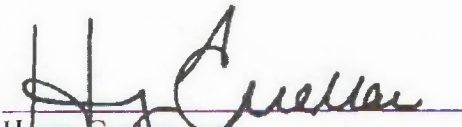
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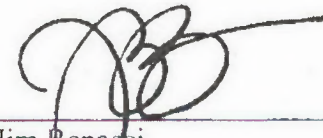
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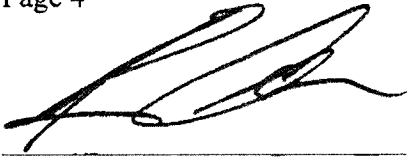
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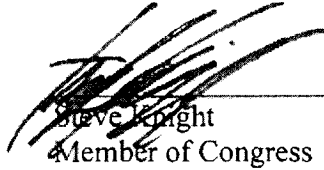
Henry Cuellar
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Jim Renacci
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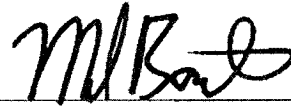
Ralph Abraham
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Steve Knight
Member of Congress




Gary Palmer
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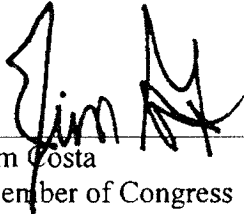
Mike Bost
Member of Congress



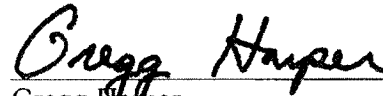
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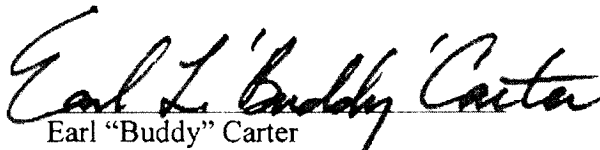
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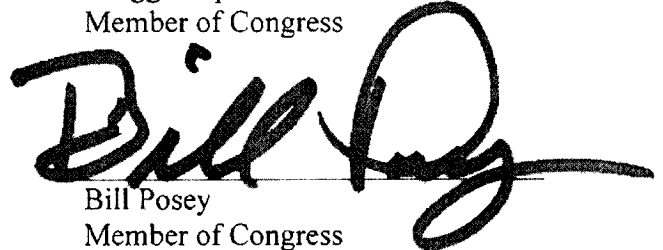
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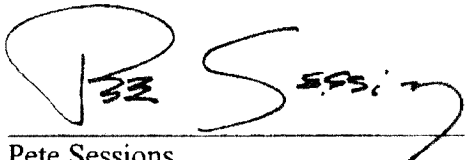
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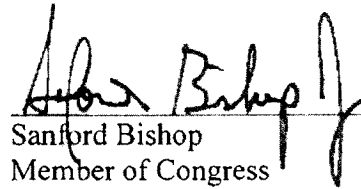
Earl "Buddy" Carter
Member of Congress



Bill Posey
Member of Congress



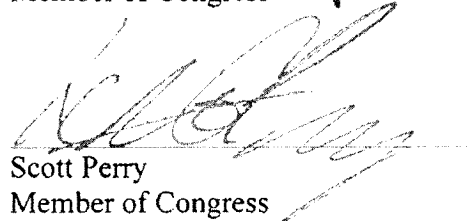
Pete Sessions
Member of Congress



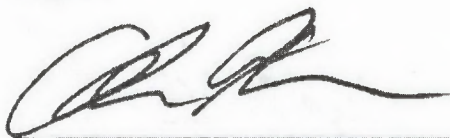
Sanford Bishop
Member of Congress



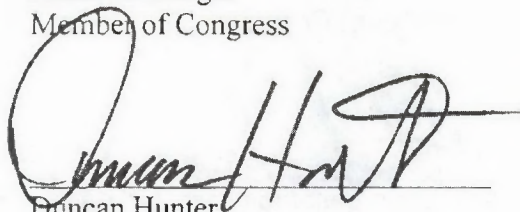
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Member of Congress



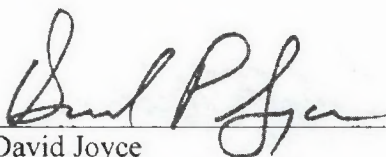
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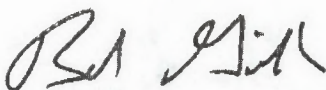
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Member of Congress



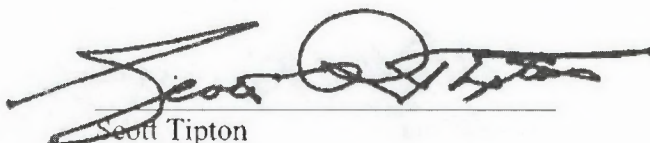
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Member of Congress



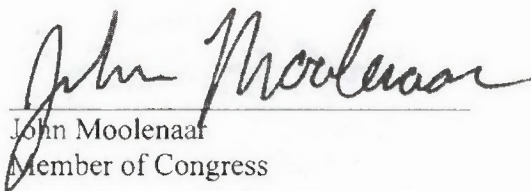
David Joyce
Member of Congress



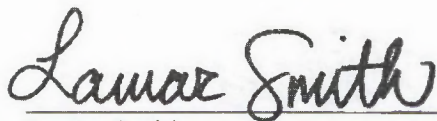
Bob Gibbs
Member of Congress



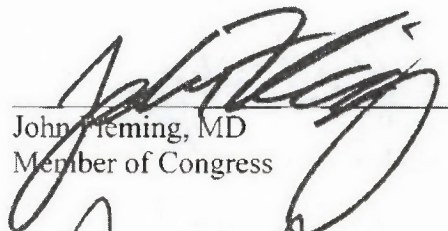
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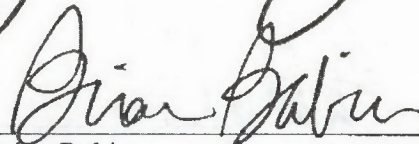
John Moolenaar
Member of Congress



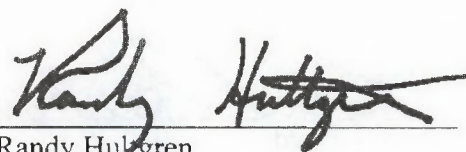
Lamar Smith
Member of Congress



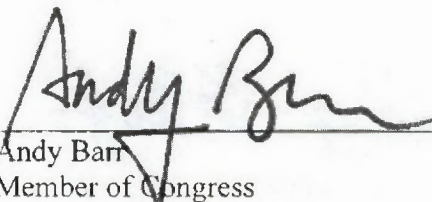
John Fleming, MD
Member of Congress



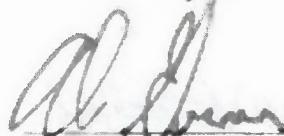
Brian Babin
Member of Congress



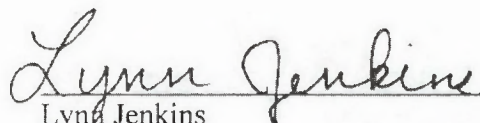
Randy Hultgren
Member of Congress



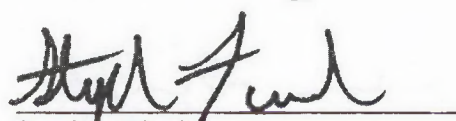
Andy Barr
Member of Congress



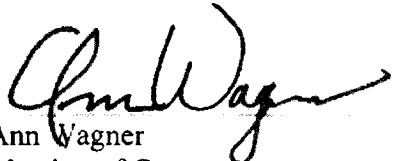
Al Green
Member of Congress



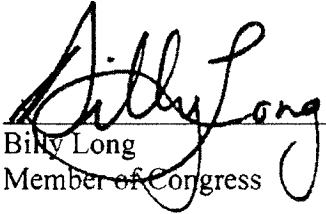
Lynn Jenkins
Member of Congress



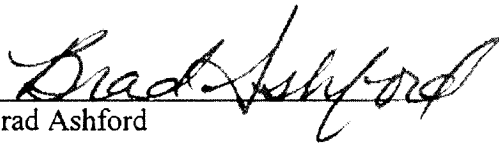
Stephen Fincher
Member of Congress



Ann Wagner
Member of Congress



Billy Long
Member of Congress



Brad Ashford
Member of Congress



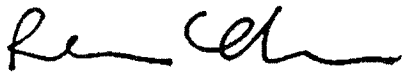
Ken Buck
Member of Congress



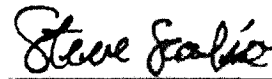
Susan Brooks
Member of Congress



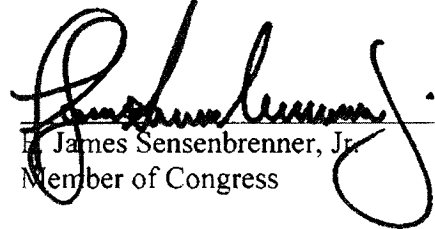
Evan Jenkins
Member of Congress



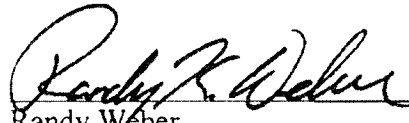
Renee Ellmers
Member of Congress



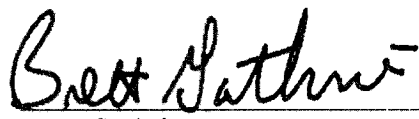
Steve Scalise
Member of Congress



James Sensenbrenner, Jr.
Member of Congress



Randy Weber
Member of Congress



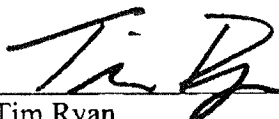
Brett Guthrie
Member of Congress



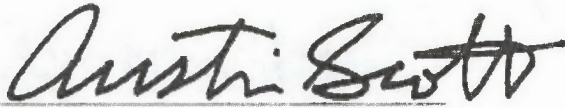
Mike Pompeo
Member of Congress



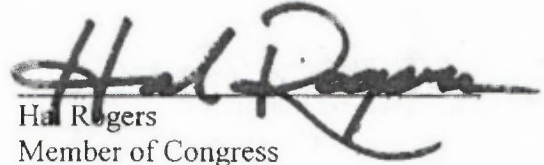
Rick Crawford
Member of Congress



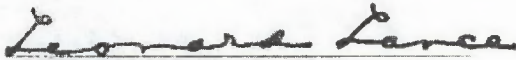
Tim Ryan
Member of Congress



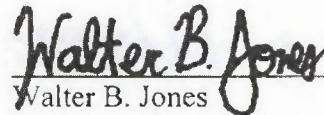
Austin Scott
Member of Congress



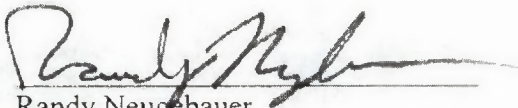
Hal Rogers
Member of Congress



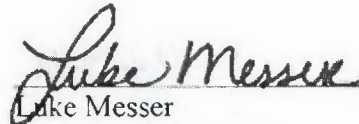
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Walter B. Jones
Member of Congress



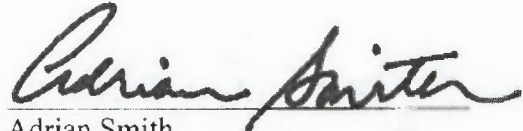
Randy Neugebauer
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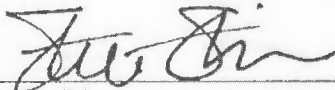
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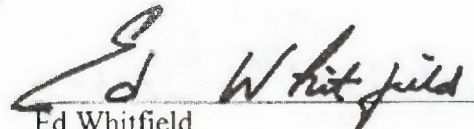
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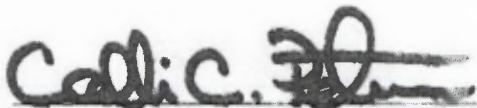
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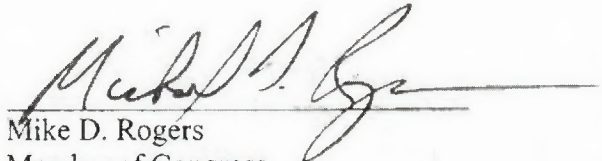
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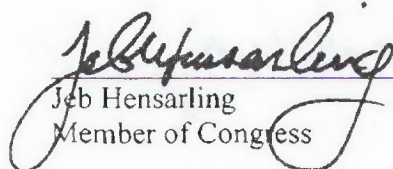
Ed Whitfield
Member of Congress



Collin Peterson
Member of Congress



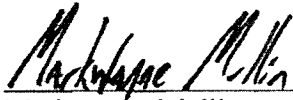
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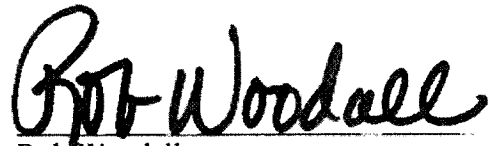
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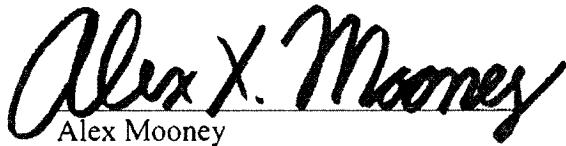
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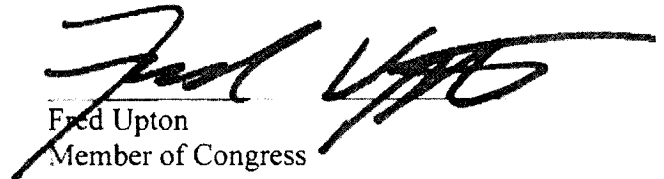
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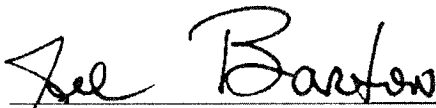
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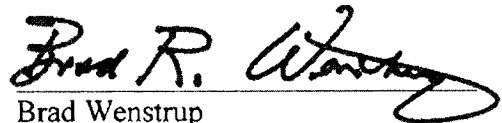
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Fred Upton
Member of Congress



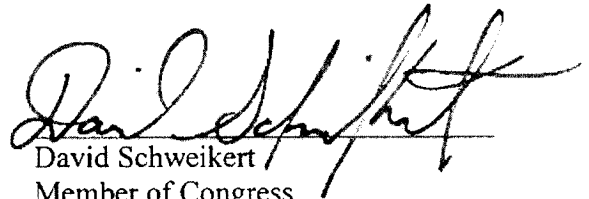
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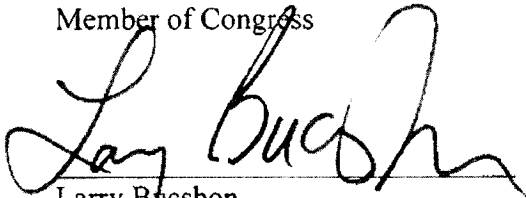
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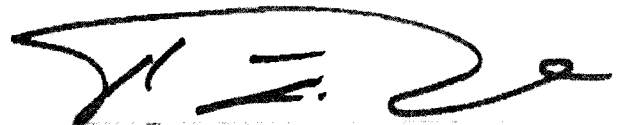
Chuck Fleischmann
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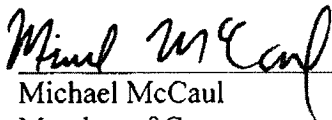
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Larry Bucshon
Member of Congress



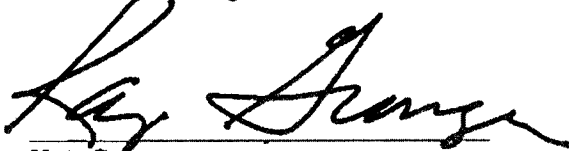
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Member of Congress



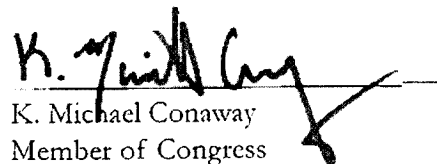
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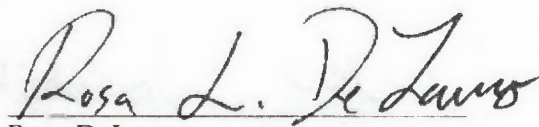
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Member of Congress



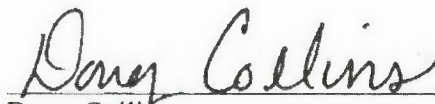
Kay Granger
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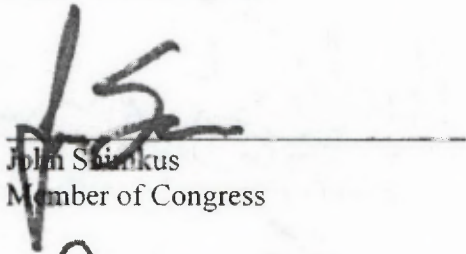
K. Michael Conaway
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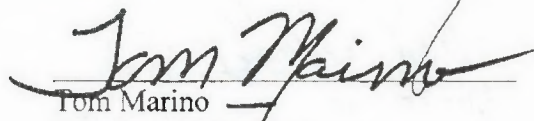
Rosa DeLauro
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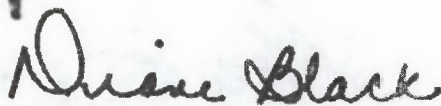
Doug Collins
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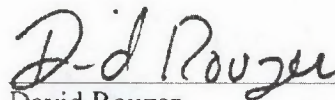
John Stankus
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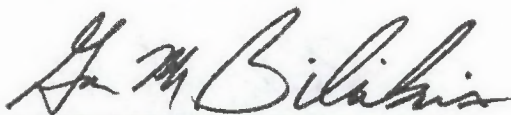
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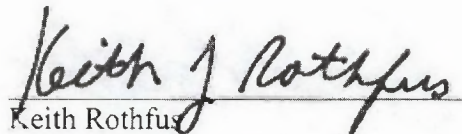
Diane Black
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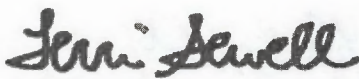
David Rouzer
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Gus M. Bilirakis
Member of Congress



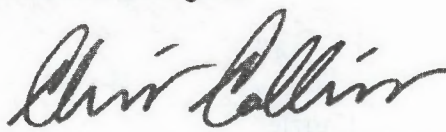
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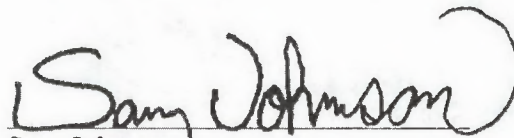
Terri Sewell
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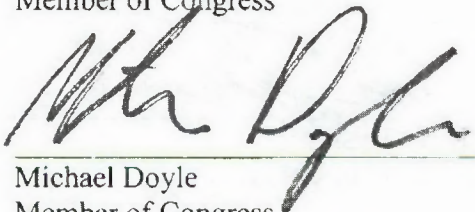
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Member of Congress



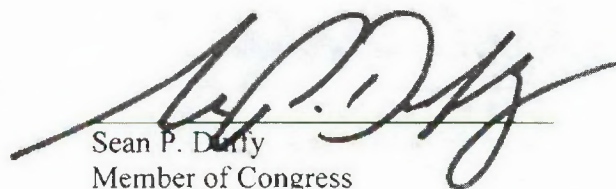
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Member of Congress



Sam Johnson
Member of Congress



Michael Doyle
Member of Congress



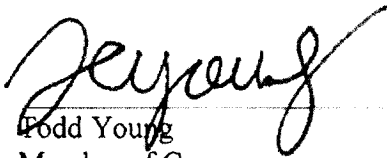
Sean P. Duffy
Member of Congress



John Culberson
Member of Congress



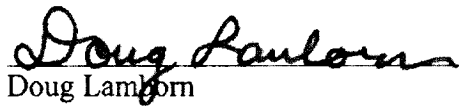
Filemon Vela
Member of Congress



Todd Young
Member of Congress



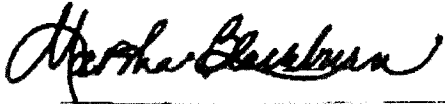
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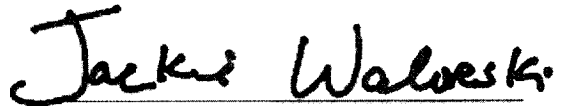
Doug Lamborn
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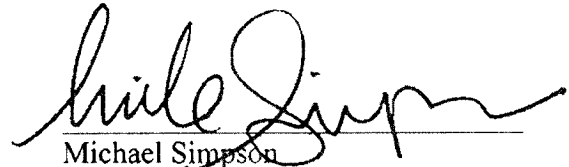
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Member of Congress



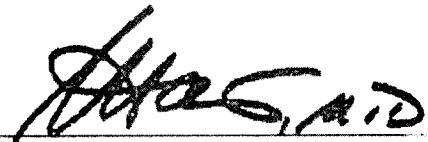
Marsha Blackburn
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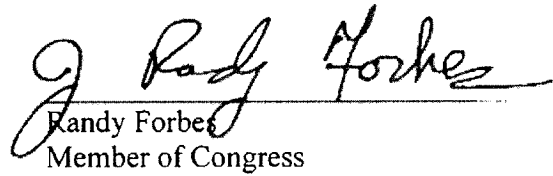
Jackie Walorski
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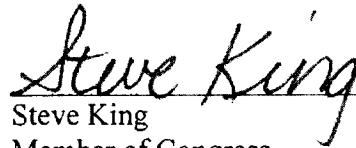
Michael Simpson
Member of Congress



Andy Harris
Member of Congress



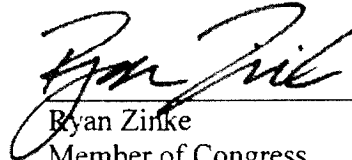
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Member of Congress



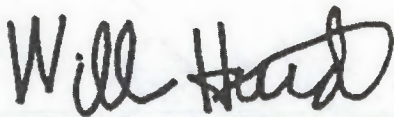
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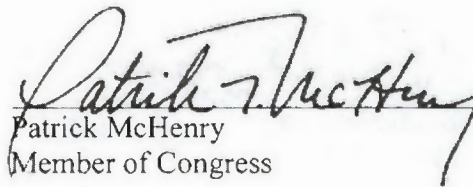
Vicky Hartzler
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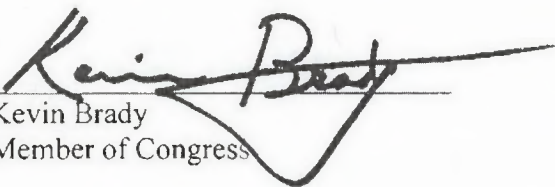
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Will Hurd
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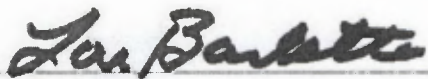
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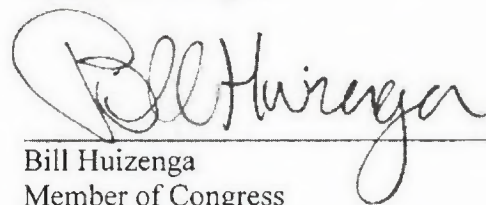
Kevin Brady
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Charles W. Dent
Member of Congress



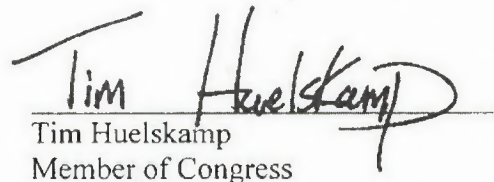
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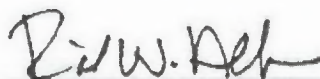
Bill Huizenga
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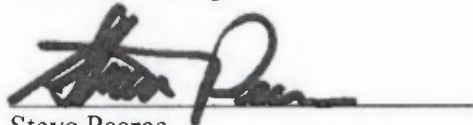
Blaine Luetkemeyer
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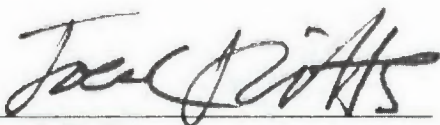
Tim Huelskamp
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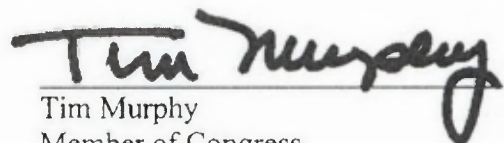
Rick Allen
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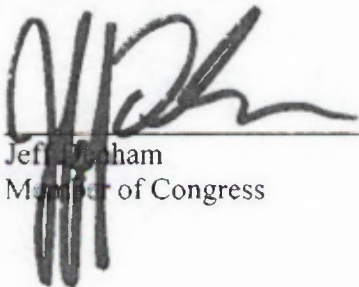
Steve Pearce
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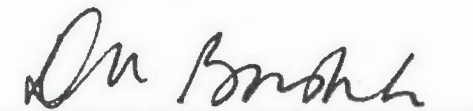
Joseph R. Pitts
Member of Congress



Tim Murphy
Member of Congress



Jeff Vanham
Member of Congress



Dan Benishek, M.D.
Member of Congress

The Honorable Gina McCarthy
July 28, 2015
Page 12

A handwritten signature in black ink, appearing to read 'Bradley Byrne', written over a horizontal line.

Bradley Byrne
Member of Congress

A handwritten signature in black ink, appearing to read 'Rod Blum', written over a horizontal line.

Rod Blum
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 26 2016

The Honorable Evan Jenkins
House of Representatives
Washington, D.C. 20515

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Dear Congressman Jenkins:

Thank you for your letter of March 2, 2016, and your interest in the U.S. Environmental Protection Agency's Interim Recommendations of Specifications, Standards, and Ecolabels for federal environmentally sustainable procurement.

The Implementing Instructions for Executive Order 13693 – *Planning for Federal Sustainability in the Next Decade* – directed the EPA, in consultation with the Office of Management and Budget and the Council on Environmental Quality, to issue these recommendations to assist federal purchasers in identifying and procuring environmentally sustainable products. The EPA's Interim Recommendation for the lumber/wood category is based on the Department of Energy's Fiscal Year 2016 (FY16) Priority Products List.

As a result of stakeholder inquiries since the release of the Interim Recommendations, the EPA has met and is continuing to work with the U.S. Department of Agriculture and the U.S. Department of Energy's Office of Sustainable Environmental Stewardship to gain further information. I have also directed the agency's Standards Executive to reach out to the Sustainable Forestry Initiative and the other forestry labels that stakeholders have requested the EPA consider. She will be in touch with these groups regarding her review of forestry labels and their alignment with the National Technology Transfer and Advancement Act, the OMB Circular A119, and related federal policies that guide the EPA's use of voluntary consensus standards and private sector conformity assessment activities. In addition, the EPA continues to progress with piloting our Guidelines for Assessing Standards and Ecolabels for Use in Federal Procurement (the Guidelines), and hopes that information gleaned from this process will inform thinking related to the lumber/wood category. Finally, the DOE continues to conduct research to inform their FY16 Priority Products List. The EPA looks forward to reviewing all of this additional data to inform if and how the lumber/wood category of Interim Recommendations might be revised.

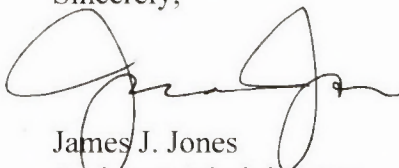
In your letter you also shared concerns about the need for a public comment period on the Interim Recommendations. The Implementing Instructions for the E.O., issued June 2015, directed the EPA, to provide these recommendations within 90 days of the issuance of the Instructions, which did not include an opportunity for public comment.

The agency has, and will continue to provide, mechanisms for public input as we develop these recommendations. We issued Federal Register Notices on the initial draft guidelines in 2014 and in March 2015 for the launch of our pilot work. Those FRNs were open to public comment and they marked the beginning of our efforts to engage multi-stakeholder panels whose counsel will be considered as we move to finalize our recommendations. Further, any federal acquisition requirements stemming from the recommendations would include a public comment process prior to incorporation

into the Federal Acquisition Regulations. As such, FAR Case 2015-033 has been developed in order to integrate the new requirements of E.O. 13693 into the FAR. All next steps related to this case, including when it will be available to the public, are viewable at http://www.acq.osd.mil/dpap/dars/far_case_status.html.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at kaiser.sven-erik@epa.gov or 202-566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', with a stylized flourish at the end.

James J. Jones
Assistant Administrator

Congress of the United States
Washington, DC 20515

March 2, 2016

Gina McCarthy, Administrator
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Administrator McCarthy:

We are writing to express our strong concerns with the Interim Recommendations released by EPA on September 25, 2015 regarding environmental standards and ecolabels for use in federal procurement. We are disappointed to see that the recommendation for lumber and wood in construction excludes many American-grown forest products by recommending only those products certified to the Forest Stewardship Council (FSC).

We urge you to immediately revise this flawed action by adding recognition for wood products that are certified to the Sustainable Forestry Initiative (SFI) and the American Tree Farm System (ATFS) as recommended for federal purchasing for lumber and wood.

Across the United States, there are more than 82 million acres of forestland certified to either SFI or ATFS. This represents more than 70% of all certified forests in the U.S. ATFS and SFI certified forests are managed to provide a renewable timber resource, clean water, wildlife habitat, and numerous other public benefits. These forests also provide thousands of jobs in the forest sector and related industries.

By excluding SFI and ATFS standards from the recommended standards for federal procurement, the EPA is sending a terribly flawed and misinformed signal to the rest of the federal government, and to the private sector, which looks to the federal government for guidance on environmental purchasing.

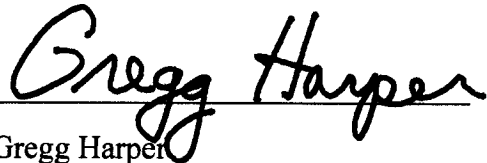
The action discredits the use of wood in government construction. This makes no sense when wood is one of the best materials architects and engineers have for reducing greenhouse gas emissions and storing carbon in buildings. Wood is a cost-effective, energy-efficient, renewable and sustainable solution for building construction.

EPA's position is inconsistent with numerous other federal agencies that have recognized and supported the use of wood in building construction, including wood certified to SFI and ATFS alongside FSC. For example, the Department of Agriculture's BioPreferred Program, which EPA has acknowledged sets mandatory purchasing requirements for federal agencies, fully recognizes wood products and accepts all three forest certification programs. EPA's recommendation is even inconsistent with guidelines listed in other places on EPA's website.

Additionally, EPA failed to follow a fair and transparent process for determining which standards to recognize for wood and lumber, as this recommendation was never made available for public comment.

We urge you to rectify this flawed recommendation and issue a revision to your Interim Recommendations by adding SFI and ATFS to the certification list for lumber and wood.

Sincerely,



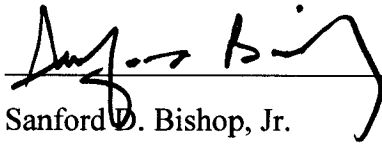
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Member of Congress



Kurt Schrader
Member of Congress



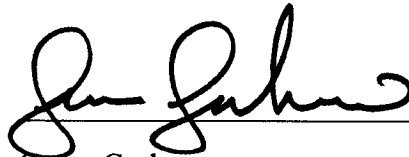
Jaime Herrera Beutler
Member of Congress



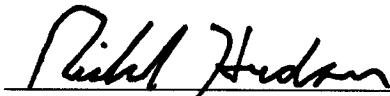
Sanford D. Bishop, Jr.
Member of Congress



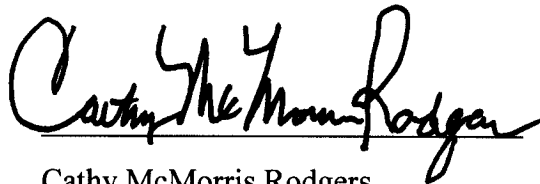
Glenn Thompson
Member of Congress



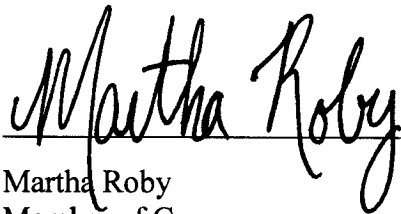
Gwen Graham
Member of Congress



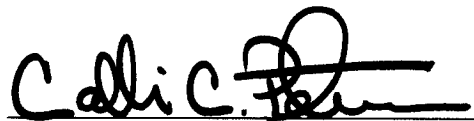
Richard Hudson
Member of Congress



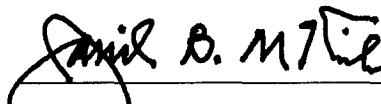
Cathy McMorris Rodgers
Member of Congress



Martha Roby
Member of Congress



Collin C. Peterson
Member of Congress



David B. McKinley, P.E.
Member of Congress



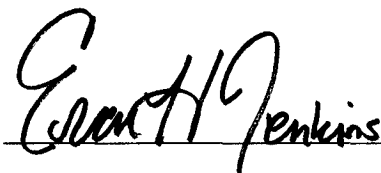
G.K. Butterfield
Member of Congress




Rick Nolan
Member of Congress



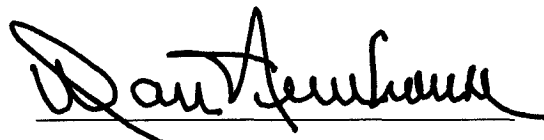
Steven M. Palazzo
Member of Congress



Evan H. Jenkins
Member of Congress



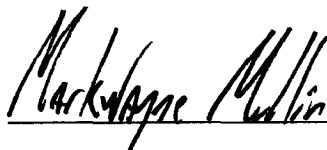
Derek Kilmer
Member of Congress



Dan Newhouse
Member of Congress



Mike Simpson
Member of Congress



Markwayne Mullin
Member of Congress



Ann McLane Kuster
Member of Congress



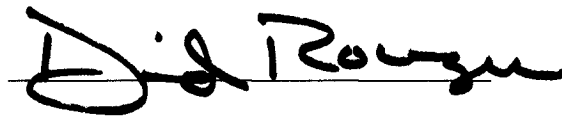
Bob Goodlatte
Member of Congress



Ralph Abraham
Member of Congress



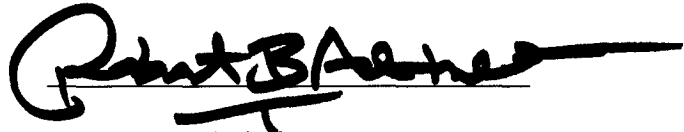
Greg Walden
Member of Congress



David Rouzer
Member of Congress



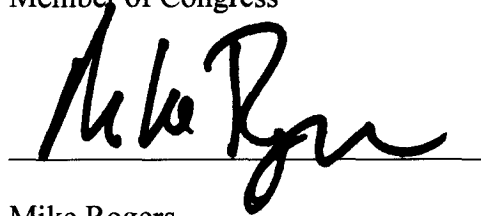
Chellie Pingree
Member of Congress



Robert B. Aderholt
Member of Congress



Dan Benishek M.D.
Member of Congress



Mike Rogers
Member of Congress

EVAN H. JENKINS
THIRD DISTRICT, WEST VIRGINIA

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-4803

June 27, 2017

1609 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

845 FIFTH AVENUE
SUITE 314
HUNTINGTON, WV 25701
(304) 522-2201

307 PRINCE STREET
BECKLEY, WV 25801
(304) 250-6177

601 FEDERAL STREET, SUITE 1003
BLUEFIELD, WV 24701
(304) 325-6800

Administrator Scott Pruitt
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20004

Dear Administrator Pruitt:

I would like to personally invite you to attend and address our community at the ribbon cutting for the new Elk Creek Mine in southern West Virginia. Our miners, families and communities know they now have a true ally in the White House, and it would be an honor to have you to join us as we celebrate this new mine and the jobs it will bring to our region.

The people of West Virginia's Third Congressional District greatly appreciate your efforts to roll back the previous administration's job-killing rules and regulations that decimated our coal communities. Your bold action and leadership have already restored hope and helped to turn our economy around.

We would be happy to work with you and your staff to determine a date and time that works best with your schedule to hold this event. For more details, or if you have any questions, please contact my office at 202-225-3452.

Sincerely,



Evan H. Jenkins
Member of Congress

OFFICE MISSION

"To ensure the people of the Third Congressional District of West Virginia have the greatest opportunity to live free and prosperous lives by serving, communicating, protecting and representing them in a professional and caring manner."



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAR 16 2015

The Honorable Evan Jenkins
Member, U.S. House of Representatives
223 Prince Street
Beckley, West Virginia 25801

Dear Representative Jenkins:

Thank you for your February 3, 2015 letter on behalf of Mayor Reba Honaker regarding her concerns for the potential assessment of civil penalties upon the City of Welch. On February 6, 2012, the City of Welch (City) and the Welch Sanitary Board entered into a consent decree with the United States and the State of West Virginia for violations of Section 301(a) of the Clean Water Act (CWA) and the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit issued by the West Virginia Department of Environmental Protection (WV DEP).

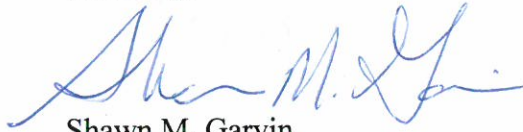
The purpose of the consent decree is for the City to adopt measures to achieve full compliance with the CWA, including all applicable federal, state and local regulations and to meet the objectives of U.S. Environmental Protection Agency's April 19, 1994 Combined Sewer Overflow (CSO) Control Policy. When the consent decree was entered, a one-time \$5,000 civil penalty, equally divisible between the United States and the state of West Virginia, was paid by the City. In accordance with the consent decree, the City is liable for stipulated penalties payable to the United States and the state of West Virginia for violations of the consent decree, unless there are extenuating circumstances that would prevent it from doing so.

The City has been delinquent in its response to several deliverables assigned under the consent decree. The City has not claimed that any extenuating circumstances have occurred, nor is the City relieved of its duty to use due diligence to timely complete the requirements of the consent decree or any obligation to meet all discharge limitations and any other obligations contained in its NPDES permit.

In its letter of June 16, 2014 to the City, the United States sought receipt of the outstanding deliverables under the consent decree. The letter, which also documented a calculated stipulated penalty of \$3,500,000, was not a demand letter, but rather, served as a reminder to the City that it has entered into an agreement and that it has a responsibility to comply with the terms of the consent decree or the United States or the state of West Virginia will seek to assess stipulated penalties. The City is expected to comply with the consent decree or stipulated penalties will be assessed.

If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Mark Ferrell, EPA's West Virginia Liaison, at (304) 542-0231.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn M. Garvin". The signature is fluid and cursive, with the first name "Shawn" being more prominent than the last name "Garvin".

Shawn M. Garvin
Regional Administrator

EVAN H. JENKINS
3RD DISTRICT, WEST VIRGINIA

502 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

845 6TH AVENUE
SUITE 162
HUNTINGTON, WV 25701
(304) 522-2201

Congress of the United States
House of Representatives
Washington, DC 20515-4803

February 3, 2015

Ms. Laura Vaught, Associate Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

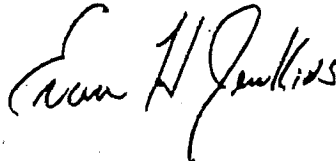
Dear Ms. Vaught:

I have been contacted by Mayor Reba Honaker, City of Welch, (304) 436-3113, regarding her efforts for assistance with the enclosed issue.

Since this matter is under your jurisdiction, I am referring it to you for your consideration.

Once you have reviewed the enclosed information, please respond to my Beckley Office at 223 Prince Street, Beckley, WV 25801.

Sincerely,



Evan H. Jenkins
Member of Congress

EHJ/km
Enclosure

City of Welch

rcvd
2/2/15

Welch Municipal Building • 88 Howard St. • Welch, WV 24801 • (304) 436-3113 • Fax (304) 436-2546

January 29, 2015

File : 7149.21

Mr. Phillip Yeany
Assistant Regional Council
Environmental Protection Agency
1625 Arch Street
Philadelphia, PA 19103

Dear Mr. Yeany,

Re: United States vs. City of Welch, CSO Report
Second Semi-Annual Report 2014

I am pleased to report that the City has achieved final completion on Contract Nos 8C and 8D and a substantial completion on Contract 8B which has resulted in the removal and capping of CSO 9, 10, 13, 14, and 15 ahead of the schedule set forth in the Consent Decree. Contract 8B is still open for improvements at the Waste Water Treatment Plant.

We have smoked tested for Contract 8B, 8C, and 8D areas in August and September 2014 to verify which customers still have improper connections to the new sanitary sewer. Once these have been identified we will notify the customers by letter of the requirement to remove their illegal connection where technically and economically feasible in the future.

In June – September 2015 we will analyze the impact of the improper connection removal in Contract 8B, 8C and 8D. Initial review indicates our peak flows have been reduced.

With advice, consultation and approval from the WVDEP we executed change order (3) three to Contract 8B for \$74,282.71 for installation of Stamford baffles in each clarifier at the Waste Water Treatment Plant to improve removal efficiencies at higher flows. This work was completed in November 2014.

The Sanitary Board has evaluated various bar screen manufacturers and their efficiency of removals. We authorized preparation of bidding documents and advertising of the screen for procurement and our installation. This was approved by WVDEP in September of 2014. We plan to install the Bar Screen & Washing compactor in the Spring of 2015.

The grit removal unit is currently fully functional. We anticipate the amount of grit received will be significantly reduced as a result of the separation on Contract Nos 8B, 8C and 8D. We will continue to analyze the volume of grit removed and make a determination in July 2015 of other actions which need to be taken.

We have found a broken line on Browns Creek which contributes a minimum of 8,000 gallons per day inflow into the system which was removed in December 2014.

The City believes the Semi-Annual Reports satisfied the terms and conditions of the Consent Decree. I received the June 16, 2014 letter related to our report dated August 15, 2013. I sincerely hope that we have satisfied your concerns exerted in improving our waste water system. I strongly believe all the facts and discharge reports will support that we have improved our operations and are not damaging the Tug River.

The City wishes the E.P.A. would reconsider any assessment of penalties especially the \$3,500,000 mentioned in the June 16, 2014 letter.

The Chesapeake Bay initiative has created a funding crisis for available infrastructure funding in West Virginia. Therefore, it is imperative the E.P.A. not take our limited local resources through assessment of penalty.

Attached is the CSO Inspection Report which summarizes the discharges from the active CSO's in the City system for the last six months, CSO Summary Report and our Waste Water Treatment Plant Plan.

The City of Welch has been making enormous efforts to improve water quality and will continue to do so.

We can schedule a conference call at your convenience.

Please accept this as the Second Semi-Annual Report of 2014.

Sincerely,



Reba J. Honaker, Mayor
City of Welch

Enclosures

cc. Governor Earl Ray Tomblin
Bobby Lewis, RUS-USDA
Sherry Adams, US Corps of Engineer
James Bush, ARC
Kathy Emory, PE, WVDEP
Elbert Morton, PE, WVIJDC
Robert Fentress, DOJ
Steve Maslowski, EPA
Donald Lewis, WVDEP
Edward L. Shutt, PE, Stafford Consultants, Inc.

cc. w/o encl:

Senator Joe Manchin
Senator Shelley Moore Capito
✓Congressman Evan Jenkins
Chris Jarrett, WDA
Jim Ellars, PE, WVJDC
Kelly Workman, WVDO
Janna Lowery, USDA
Michele Price-Fay, USEPA
Chuck Fogg, EPA
Randy Huffman, WVDEP
Jeremy Bandy, WVDEP
John Frederick, WVDEP
Joe Hickman, WVDEP
Mike Zeto, WVDEPO
Walt Ivey, PE, WVBPH
Paul Mattox, PE, WVDOT
West Virginia Public Service Commission
Jack Caffrey, Sanitary Board
Claude Banner, Sanitary Board
Mike Day, City Council
Fred Odum, City Council
William Spencer, City Council
Steve Ford, City Council
Vicki McBride, City Council
Jason Roberts, Region 1 Planning and Development Council
Matthew Peters, Stafford Consultants, Inc.
Richard Osborne, Stafford Consultants, Inc.
Tim Carver, WWTP Supervisor
Jack Whittaker, Supervisor



Congressman Evan Jenkins

Kim McMillion, Office Manager

223 Prince Street

Beckley, WV 25801

(304) 250-6177

(304) 250-6179 (fax)

TO: EPA

FAX# (202) 501-1519

DATE: 2/3/15

#of Pages 5

Message: RE: The City of Welch, WV



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 23 2015

OFFICE OF
AIR AND RADIATION

The Honorable Evan Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of November 4, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding your concerns that the proposed standards for 2014 - 2016 under the Renewable Fuel Standard (RFS) program fall short of the statutory targets. The Administrator has asked me to respond to you on her behalf.

Under the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the EPA is required to set annual standards for the RFS program each year. The statute requires the EPA to establish annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuels that apply to gasoline and diesel produced or imported in a given year.

In our June 10, 2015, proposal we made a preliminary determination that the market would experience significant uncertainty if the EPA were to ignore the constraints on supply and set the standards at the statutory targets, as we expect that there would be widespread shortfalls in supply under those circumstances. The proposal sought to balance two dynamics: Congress's clear intent to increase renewable fuels over time to address climate change and increase energy security, and real-world circumstances that have slowed progress towards such goals. In order to provide the certainty that investors and others in the market need, we proposed using the tools Congress provided to make adjustments to the law's volume targets. Though we proposed using the authority provided by Congress, we nevertheless proposed standards for cellulosic biofuel, advanced biofuel, and total renewable fuel that would result in ambitious, achievable growth in biofuels.

We held a public hearing on the proposal on June 25, 2015, in Kansas City, Kansas, where over 200 people provided testimony. Further, we received over 670,000 comments from the public comment period, which closed on July 27, 2015. We are taking those comments, as well as the thoughts you provided in your letter, under consideration as we prepare the final rulemaking which we intend to finalize by November 30, 2015.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "J. G. McCabe", written in a cursive style.

Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

November 4, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We write to express significant concern with the recently proposed 2016 Renewable Volume Obligations (RVO) under the Renewable Fuel Standard (RFS). The RVO as currently proposed would constitute a breach of the ethanol blendwall, which would cause adverse impacts on American consumers and the economy.

Congress expanded the RFS when it passed the Energy Independence and Security Act of 2007 (EISA). EISA mandated an annually increasing volume of biofuel to be blended and consumed in the nation's motor fuel supply, reaching 36 billion gallons of biofuels in 2022. In 2007, the market assumptions regarding the future of transportation fuels in the United States were very different from the realities of the market today. The Energy Information Administration (EIA) at the time projected motor gasoline demand to significantly rise through 2022¹. Since then, EIA has revised its 2007 projection of motor gasoline in 2022 downward by 27% and projects motor gasoline demand to continue to decline through 2035¹.

Increased fuel efficiency has led to shrinking gasoline demand. This current reality, coupled with an increasing biofuel blending level requirement, has exacerbated the onset of the E10 blendwall—the point at which the gasoline supply is saturated with the maximum amount of ethanol that the current vehicle fleet, marine and other small engines, and refueling infrastructure can safely accommodate. We agree with the EPA's conclusion in its first RVO proposal for 2014 and in its current proposal for 2014, 2015, and 2016 that the E10 blendwall is a binding constraint.

We are gravely concerned, however, that despite the Agency's recognition of the blendwall, the 2016 proposal acknowledges that it will be breached nonetheless. Specifically, EPA states that the 2016 RVO “includes volumes of renewable fuel that will require either ethanol use at levels significantly beyond the level of the E10 blendwall, or significantly greater use of non-ethanol renewable fuels than has occurred to date.”²

¹ Energy Information Administration, *Annual Energy Outlook 2007-2015*, Reference Case Table 11

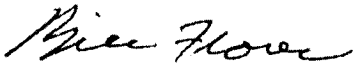
² Federal Register, Vol. 80, No. 111, Wednesday, June 10, 2015, Proposed Rules (p.33102), *EPA Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Proposed Rule*

Multiple studies have shown detrimental economic harm may be caused by breaching the E10 blendwall. A 2014 report on the RFS by the nonpartisan Congressional Budget Office concluded that requiring the volumes of biofuel in EISA, which would breach the blendwall, could increase the price of E10 gasoline by up to 26 cents per gallon³. NERA concludes in a July 27, 2015 study that "higher gasoline prices leave consumers with less disposable income⁴", further hindering economic growth. An RFS study by Charles River Associates concurs: "The result [of exceeding the blendwall] will be limited availability, higher consumer costs, and fewer sales of conventional transportation fuels⁵." This adverse economic harm falls hardest on America's lower income families.

EPA acknowledges that its 2016 RVO proposal would require significant greater use of E15 and E85 in order to meet the proposed mandate in 2016. Therefore, this proposal is problematic not only in principle, but it is also impractical since it would take decades, not months, to build out the compatible vehicle fleet and install the necessary retail infrastructure to accommodate the higher blends of ethanol. AAA calculates that only 5% of the vehicles on the road are approved to use E15⁶ and the EIA calculates that only 6% of vehicles can use E85⁷. The refueling retail infrastructure is even more limited with only 2% of retail stations selling E85⁸ and only 100 stations nationwide selling E15⁹.

Congress will continue its work toward a bipartisan solution to deal with the RFS. As this work continues, it is critical that EPA use its statutory authority to waive EISA's conventional biofuel volume to keep the blending requirements below the E10 blendwall, and to help limit the economic and consumer harm this program has already caused.

Sincerely,



Bill Flores
Member of Congress



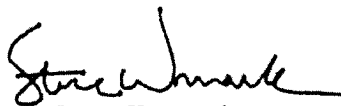
Peter Welch
Member of Congress



Bob Goodlatte
Member of Congress



Jim Costa
Member of Congress



Steve Womack
Member of Congress

³ Congressional Budget Office, *The Renewable Fuel Standard: Issues for 2014 and Beyond* (June 2014)

⁴ NERA Economic Consulting, *Economic Impacts Resulting from Implementation of RFS2 Program* (July 2015)

⁵ Charles River Associates, *Impact of the Blend Wall Constraint in Complying with the Renewable Fuel Standard* (November 2011)

⁶ American Automobile Association, Press Release "New E15 Gasoline May Damage Vehicles and Cause Consumer Confusion" (December 2012)

⁷ Energy Information Administration, *Annual Energy Outlook 2014*

⁸ Fuels Institute, *E85: A Market Performance Analysis and Forecast* (2014)

⁹ Renewable Fuels Association data (www.ethanolrfa.org)

Jeff Plesman

Tom Barletta

Bob Boy

Glenn Thompson

Steve Kessel

Thomas Chie

Jim Heck

Gary Johnson

Jim Biedenstein

Tom Zick

Bill Posey

Rob Boy

Ann

Bruce Western

Mindy McCaul

Art R

Joselyn Castro

Don B. Lane

Robert J. Dadd

Nick Patyger

D.C. Orr

Robert A. Verne

Mimi Zeller

Kim Basso

Thomas Massie

Will Hurd

Joseph R. Valpey

Tom Lice

Barbara Comstock

Charles J. Elwell

St. J. De

Gregg Harper

Gregg Harper

Diana Labin

Al. Loma

Rn Orr

Ryan Costello

Denny Heck

D-d Rouzer

Joseph R Pitts

Scott Rigell

M V

Michael

Samuel B. M'lie

Dan J. Schipani

Ocie R. Rose

Pete King

Jeff Miller

Shank V. Anderson

Dan Brou

Fred Minth

John Ratcliffe

Ch. Stewart

Paul Rogers

Don Brink

Rita W. Allen GA-12

Ted S. Yoko

Rocky K. Weber

S. Holly

Sh. M. Ayte

Paul A. Leland

E. H. Jenkins

Glen Grotman

Joe Joe

Fab Vele

Mig Pompo

John Mark

Earl L. Buddy Carter

Nichol Hudson

Mike Bishop

Roller

1 Devin Nunn

Rais Lunkel

Blake Funtke

Kay Jensen

~~John~~

Jaime Herrera Beutler

W. May Jr VA-9

Mark McSally

Dwaine Black

W. W. W.

Markwayne Mullin

Kenny Egan

Alex X. Mooney

Mo Brooks

D. Amodeo (AR-2)

Paul Cook

Chris Collins (NY-27)

Keith J. Rothfus

W. W. W.

~~CPA~~

Dilly Lang

~~DeSandro~~

Ji Jadar

Judy Alice

Andy Barr

~~Chad Campbell~~

Paul Hahn TX-19

Roger Whitting

~~Dan Ambrose~~

Raul R. Labrador

Mike Kelly

Zu Zhi NY-01

Doug Collins GA-9

CW Boush A
J & L

Trey Gandy

David R. Waring

Kim Crandall

Rob Woodall

Rich Taylor

Joe Barton

John Barte

Sen M. Bilirakis

Pete Olson

Mark Sanford

John Garamendi

Pete DeFazio

Andre Broussard

John Dingell

Dwight Walcott

Dan Claitor

Chell R

Shirley M. Nye

Lynn Whitfield

Mac Thornberry

Hy Chellor
Charles W Dent

Paul H
Dan Rosten

John Henshaw
Joe Wilson

Sam Johnson

Scott Garrett

Ed Royce

Bob Sasser

Mike Espino
Kerry Mink

Ronnie Lohmeyer

Ruben Hinojosa

Mark Blackburn

Jeff Butten
PP Miller

Bill Sum

Ken Young

Steve Scalise

Walter B. Jones

Virginia Foxx

St. Hakt

Paul Smith

Lamar Smith

Austin Scott

Frank A. Lobiondo

J. M. Chas

J. K. Beyer (11/13)

Jeff Shum

Leonard Lance

John Culberson

Doug Lamborn

AMM

Mike Yabon

Tom Murphy

Donna Hunt

Steve Fenn

Rient/Tranks
Tom Reed NY 23

Mike Cohen

James H. W. WI-05

Sept Le Funt

Robert J. Weller

Bruce Soliquin

Kurt Schuler

Gerald P. Lummis

Tim Walberg

Tom Graves

Ben R. Lujan

Er Gb

Dra Green

K. Quintana

Page 3	
Jeff Duncan	Ryan Zinke
Lou Barletta	Bill Posey
Bradley Byrne	Rob Bishop
Glenn Thompson	Robert Hurt
Steve Russell	Bruce Westerman
Tom Price	Michael T. McCaul
Joe Heck	Garret Graves
Gary Palmer	Joaquin Castro
Jim Bridenstine	Mia B. Love

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Robert J. Dold	Tom Rice
Robert Pittenger	Barbara Comstock
Dennis A. Ross	Charles J. "Chuck" Fleischmann
Robert Aderholt	Cedric Richmond
Mimi Walters	Barry Loudermilk
Kevin Brady	Gregg Harper
Thomas Massie	Brian Babin
Will Hurd	Richard Hanna
Doug LaMalfa	Ron DeSantis

Page 5	
Ryan Costello	David P. Roe
Denny Heck	Peter King
David Rouzer	Jeff Miller
Joseph R. Pitts	Mark E. Amodei
Scott Rigell	Dave Brat
Marc A. Veasey	Frank Guinta
Scott DesJarlais	John Ratcliffe
David B. McKinley	Chris Stewart
David Schweikert	Steven M. Palazzo

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Dan Benishek	Mario Diaz-Balart
Rick Allen	Filemon Vela
Ted Yoho	Mike Pompeo
Randy K. Weber, Sr.	Patrick Meehan
George Holding	Earl L. "Buddy" Carter
Tom MacArthur	Richard Hudson
Paul Gosar	Mike Bishop
Evan Jenkins	David Valadao
Glenn Grothman	Devin Nunes

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Lois Frankel	Blake Farenthold
Kay Granger	Steve Knight
Jamie Herrera Beutler	H. Morgan Griffith
Martha McSally	Diane Black
John Katko	Markwayne Mullin
Renee Ellmers	Alexander X. Mooney
Mo Brooks	French Hill
Paul Cook	Chris Collins
Keith Rothfus	Scott Perry

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Christopher P. Gibson	Dan Newhouse
Billy Long	Raul R. Labrador
Andy Harris	Mike Kelly
Jim Jordan	Lee Zeldin
Jody Hice	Doug Collins
Andy Barr	Charles W. Boustany, Jr.
Carlos Curbelo	Trent Kelly
Randy K. Neugebauer	Trey Gowdy
Roger Williams	Bradley Wenstrup

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Eric A. "Rick" Crawford	Peter DeFazio
Rob Woodall	Ander Crenshaw
Richard Nugent	John Fleming
Joe Barton	Gregg Walden
John Carter	David W. Jolly
Gus M. Bilirakis	Chellie Pingree
Pete Olson	John Mica
Mark Sanford	Lynn Westmoreland
John J. Duncan, Jr.	Mac Thornberry

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Henry Cuellar	Darrell E. Issa
Charles W. Dent	Dana Rohrabacher
Jeb Hensarling	Sam Johnson
Joe Wilson	Edward R. Royce
Scott Garrett	Michael K. Simpson
Pete Sessions	Kenny Marchant
Louie Gohmert	Ruben Hinojosa
Marsha Blackburn	G. K. Butterfield
Bill Shuster	Rodney P. Frelinghuysen

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Don Young	Tom McClintock
Steve Scalise	Michael C. Burgess
Walter B. Jones	Matt Salmon
Virginia Foxx	Leonard Lance
Steve Chabot	John Abney Culberson
Christopher H. Smith	Doug Lamborn
Lamar Smith	Ted Poe
Austin Scott	Mick Mulvaney
Frank A. LoBiondo	Tim Murphy

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Duncan Hunter	Kurt Schrader
Stevan Pearce	Cynthia Lummis
Trent Franks	Tim Walberg
Tom Reed	Tom Graves
Mike Coffman	Ben Ray Lujan
F. James Sensenbrenner	Tom Cole
Stephen Fincher	Gene Green
Robert J. Wittman	K. Michael Conaway
Bruce Poliquin	

Congress of the United States
Washington, DC 20515

November 4, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We write to express significant concern with the recently proposed 2016 Renewable Volume Obligations (RVO) under the Renewable Fuel Standard (RFS). The RVO as currently proposed would constitute a breach of the ethanol blendwall, which would cause adverse impacts on American consumers and the economy.

Congress expanded the RFS when it passed the Energy Independence and Security Act of 2007 (EISA). EISA mandated an annually increasing volume of biofuel to be blended and consumed in the nation's motor fuel supply, reaching 36 billion gallons of biofuels in 2022. In 2007, the market assumptions regarding the future of transportation fuels in the United States were very different from the realities of the market today. The Energy Information Administration (EIA) at the time projected motor gasoline demand to significantly rise through 2022¹. Since then, EIA has revised its 2007 projection of motor gasoline in 2022 downward by 27% and projects motor gasoline demand to continue to decline through 2035¹.

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We are gravely concerned, however, that despite the Agency's recognition of the blendwall, the 2016 proposal acknowledges that it will be breached nonetheless. Specifically, EPA states that the 2016 RVO "includes volumes of renewable fuel that will require either ethanol use at levels significantly beyond the level of the E10 blendwall, or significantly greater use of non-ethanol renewable fuels than has occurred to date."²

¹ Energy Information Administration, *Annual Energy Outlook 2007-2015*, Reference Case Table 11

² Federal Register, Vol. 80, No. 111, Wednesday, June 10, 2015, Proposed Rules (p.33102), *EPA Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Proposed Rule*

Multiple studies have shown detrimental economic harm may be caused by breaching the E10 blendwall. A 2014 report on the RFS by the nonpartisan Congressional Budget Office concluded that requiring the volumes of biofuel in EISA, which would breach the blendwall, could increase the price of E10 gasoline by up to 26 cents per gallon³. NERA concludes in a July 27, 2015 study that "higher gasoline prices leave consumers with less disposable income⁴", further hindering economic growth. An RFS study by Charles River Associates concurs: "The result [of exceeding the blendwall] will be limited availability, higher consumer costs, and fewer sales of conventional transportation fuels⁵." This adverse economic harm falls hardest on America's lower income families.

EPA acknowledges that its 2016 RVO proposal would require significant greater use of E15 and E85 in order to meet the proposed mandate in 2016. Therefore, this proposal is problematic not only in principle, but it is also impractical since it would take decades, not months, to build out the compatible vehicle fleet and install the necessary retail infrastructure to accommodate the higher blends of ethanol. AAA calculates that only 5% of the vehicles on the road are approved to use E15⁶ and the EIA calculates that only 6% of vehicles can use E85⁷. The refueling retail infrastructure is even more limited with only 2% of retail stations selling E85⁸ and only 100 stations nationwide selling E15⁹.

Congress will continue its work toward a bipartisan solution to deal with the RFS. As this work continues, it is critical that EPA use its statutory authority to waive EISA's conventional biofuel volume to keep the blending requirements below the E10 blendwall, and to help limit the economic and consumer harm this program has already caused.

Sincerely,



Bill Flores
Member of Congress



Peter Welch
Member of Congress



Bob Goodlatte
Member of Congress



Jim Costa
Member of Congress



Steve Womack
Member of Congress

³ Congressional Budget Office, *The Renewable Fuel Standard: Issues for 2014 and Beyond* (June 2014)

⁴ NERA Economic Consulting, *Economic Impacts Resulting from Implementation of RFS2 Program* (July 2015)

⁵ Charles River Associates, *Impact of the Blend Wall Constraint in Complying with the Renewable Fuel Standard* (November 2011)

⁶ American Automobile Association, Press Release "New E15 Gasoline May Damage Vehicles and Cause Consumer Confusion" (December 2012)

⁷ Energy Information Administration, *Annual Energy Outlook 2014*

⁸ Fuels Institute, *E85: A Market Performance Analysis and Forecast* (2014)

⁹ Renewable Fuels Association data (www.ethanolrfa.org)

Jeff Pearson

Zoe Barletta

Bob By

Glenn Thompson

Steve Kessel

Sharon Chico

Jim Heck

Gary Johnson

Jim Bidenstein

Tom Zick

Bill Posey

Rob By

Phm

Bruce Western

Minel McCarl

Art R

Jacobin Castro

Don B Love

Robert J. Dald

Robert P. Panger

D. G. C. C.

Robert A. Bernick

Minna Zeller

Kim B. B. B.

Thomas Massie

Will Hurd

Joseph M. K. K.

Tom Lice

Barbara Comstock

Charles J. Thibodeau

St. J. J. J.

Gregg Harper

Gregg Harper

Diana Lavin

John P. P.

Mr. D. D.

Ryan Costello

Denny Heck

D-d Rouzer

Joseph R Pitts

Scott Rigell

M Viny

Thomas

Samuel B. McTee

Paul J. Schmitt

Ocie R. Rouse

Pete King

Jill Miller

Mark V. Anderson

Dan Boat

Fred Minner

John Ratcliffe

Ch. Stewart

Shirley Rogers

Don Brink

Rita W. Allen GA-12

Ted S. Galt

Barry K. Weber

Joe Holz

Pat M. Ayth

Paul A. Landon MS

Eric H. Jenkins

Glenn Grothman

Joe J. J.

Fab Velk

Mya Pompeo

John O'Meara

Earl L. Buddy Carter

Nichol Hudson

Mike Bishop

Roller

1 Dean Nunn

Lair Funkel

Blake Funtkelet

Kay Hansen

~~John J. Hill~~

Jaime Herrera Beutler

W. M. J. VA-9

Mark McSally

Quinn Black

W. W. W.

Markwayne Mullin

Kenny Egan

Alex X. Mooney

Mo Brooks

D. Amodeo (Hill AR-2)

Paul Cook

Chin Colson (NY-27)

Keith J. Rothfus

W. M. J.

CPA

Dilly Lang
Hassan

J. Jadar

Judy Alice

Andy Barr

Greg Campbell

Paul Hahn TX-19

Robert Williams

Dan Ambrose

Raul R. Labrador

Mike Kelly

Zu Zhi NY-01

Doug Collins GA-9

CW Boushara D

DL

Trey Gowdy

Fred R. Wicks

Andreas

Rob Woodall

R. L. Taylor

Joe Barton

John Brea

Sen. M. Bilirakis

Pete Olson

Mark Sanford

John G. ...

Pete DeFazio

Andre Custer

John ...

Doug Walen

D. ...

Chell R

[Signature]

Lynn ...

Mac ...

Hj Cuellar
Charles W Dent

Paul H
Dan Rosten

John Kauling

Sam Johnson

Joe Wilson

Ed Royce

Scott Garrett

Mike Sp

Jeff Sessions

Ken Meek

Eric Schmitt

Rubin Hinojosa

Marsha Blackburn

Gr Butter
PP Miller

Bill Sum

Ken Young

Steve Scalise

Walter B. Jones

Virginia Foxx

St. Shaht

Paul Smith

Lamar Smith

Austin Scott

Frank A. Lobato

J. M. Chis

John R. Ganga (M)

Jeff Flinn

Leonard Lance

John Culberson

Doug Lamborn

AMM

Mike Walcott

Tim Murphy

Ann Hunt

Kurt Schuler

Steve Poon

Synthia P. Lummis

Kent Starks

Jim Walling

Tom Reed NY 23

Tom Graves

Mike Colton

Ben R. Lujan

James H. Murray WI-05

Erin O'Brien

Steve L. Fink

Dr. Green

Robert J. Wittman

K. J. H. H. H.

Bruce Soliquin

Kevin McCarthy

The Honorable Gina McCarthy
Page 13

Page 3	
Jeff Duncan	Ryan Zinke
Lou Barletta	Bill Posey
Bradley Byrne	Rob Bishop
Glenn Thompson	Robert Hurt
Steve Russell	Bruce Westerman
Tom Price	Michael T. McCaul
Joe Heck	Garret Graves
Gary Palmer	Joaquin Castro
Jim Bridenstine	Mia B. Love

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Robert J. Dold	Tom Rice
Robert Pittenger	Barbara Comstock
Dennis A. Ross	Charles J. "Chuck" Fleischmann
Robert Aderholt	Cedric Richmond
Mimi Walters	Barry Loudermilk
Kevin Brady	Gregg Harper
Thomas Massie	Brian Babin
Will Hurd	Richard Hanna
Doug LaMalfa	Ron DeSantis

Page 5	
Ryan Costello	David P. Roe
Denny Heck	Peter King
David Rouzer	Jeff Miller
Joseph R. Pitts	Mark E. Amodei
Scott Rigell	Dave Brat
Marc A. Veasey	Frank Guinta
Scott DesJarlais	John Ratcliffe
David B. McKinley	Chris Stewart
David Schweikert	Steven M. Palazzo

Page 6	
Dan Benishek	Mario Diaz-Balart
Rick Allen	Filemon Vela
Ted Yoho	Mike Pompeo
Randy K. Weber, Sr.	Patrick Meehan
George Holding	Earl L. "Buddy" Carter
Tom MacArthur	Richard Hudson
Paul Gosar	Mike Bishop
Evan Jenkins	David Valadao
Glenn Grothman	Devin Nunes

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Lois Frankel	Blake Farenthold
Kay Granger	Steve Knight
Jamie Herrera Beutler	H. Morgan Griffith
Martha McSally	Diane Black
John Katko	Markwayne Mullin
Renee Ellmers	Alexander X. Mooney
Mo Brooks	French Hill
Paul Cook	Chris Collins
Keith Rothfus	Scott Perry

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Christopher P. Gibson	Dan Newhouse
Billy Long	Raul R. Labrador
Andy Harris	Mike Kelly
Jim Jordan	Lee Zeldin
Jody Hice	Doug Collins
Andy Barr	Charles W. Boustany, Jr.
Carlos Curbelo	Trent Kelly
Randy K. Neugebauer	Trey Gowdy
Roger Williams	Bradley Wenstrup

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Eric A. "Rick" Crawford	Peter DeFazio
Rob Woodall	Ander Crenshaw
Richard Nugent	John Fleming
Joe Barton	Gregg Walden
John Carter	David W. Jolly
Gus M. Bilirakis	Chellie Pingree
Pete Olson	John Mica
Mark Sanford	Lynn Westmoreland
John J. Duncan, Jr.	Mac Thornberry

Page 10	
Henry Cuellar	Darrell E. Issa
Charles W. Dent	Dana Rohrabacher
Jeb Hensarling	Sam Johnson
Joe Wilson	Edward R. Royce
Scott Garrett	Michael K. Simpson
Pete Sessions	Kenny Marchant
Louie Gohmert	Ruben Hinojosa
Marsha Blackburn	G. K. Butterfield
Bill Shuster	Rodney P. Frelinghuysen

Page 11	
Don Young	Tom McClintock
Steve Scalise	Michael C. Burgess
Walter B. Jones	Matt Salmon
Virginia Foxx	Leonard Lance
Steve Chabot	John Abney Culberson
Christopher H. Smith	Doug Lamborn
Lamar Smith	Ted Poe
Austin Scott	Mick Mulvaney
Frank A. LoBiondo	Tim Murphy

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Duncan Hunter	Kurt Schrader
Stevan Pearce	Cynthia Lummis
Trent Franks	Tim Walberg
Tom Reed	Tom Graves
Mike Coffman	Ben Ray Lujan
F. James Sensenbrenner	Tom Cole
Stephen Fincher	Gene Green
Robert J. Wittman	K. Michael Conaway
Bruce Poliquin	Kevin McCarthy

Congress of the United States
House of Representatives
Washington, DC 20515-4803

May 23, 2017

Administrator Scott Pruitt
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

I would like to invite you to address the attendees of the West Virginia Chamber of Commerce's 2017 Annual Meeting and Business Summit. This event takes place August 30 – September 1 at The Greenbrier Resort in White Sulphur Springs, WV, and attracts a crowd of over 900 business, education, policy and political leaders of West Virginia.

The expected attendees include West Virginia Governor Jim Justice, all members of the West Virginia Congressional delegation, and important state legislators. Recent past speakers at the West Virginia Chamber's Annual Meeting and Business Summit include former Vice President Dick Cheney, national economist Dr. Arthur Laffer, former Indiana Governor Mitch Daniels, former Utah Governor and U.S. Ambassador Jon Huntsman, Jr., Fox News Anchor Bret Baier, and *Forbes* Magazine Editor-in-chief Steve Forbes.

Perhaps no other state suffered as much under the previous administration's misguided rules and regulations. The Trump administration's leadership and bold action has already helped to turn our economy around. Our miners, families, and communities know they have a true ally in the White House, and it would be our privilege and honor for you to join us.

I would be deeply appreciative if you were willing to speak to the Chamber's members at the 2017 Annual Meeting and Business Summit. We would be happy to accommodate your schedule to fit any of the three days.

I look forward to hearing from you. For more details, or if you have any questions, please contact my office at 202-225-3452.

Sincerely,



Evan Jenkins

Member of Congress

OFFICE MISSION

"To ensure the people of the Third Congressional District of West Virginia have the greatest opportunity to live free and prosperous lives by serving, communicating, protecting and representing them in a professional and caring manner."



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

MAR 20 2015

The Honorable Evan H. Jenkins
Member, U.S. House of Representatives
Huntington District Office
845 Fifth Avenue
Huntington, West Virginia 25701

Dear Representative Jenkins:

Thank you for your February 18, 2015 letter on behalf of your constituent, Mr. Francis A. Zuspan, regarding an allegation of illegal hazardous waste dumping near Clifton, West Virginia. Mr. Zuspan has asked why the United States did not pursue enforcement in this matter.

The U.S. Environmental Protection Agency (EPA), in consultation with the West Virginia Department of Environmental Protection, did perform an investigation of the allegations. The investigators found insufficient evidence to support an enforcement response.

If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Mark Ferrell, EPA's West Virginia Liaison, at (304) 542-0231.

Sincerely,

A handwritten signature in blue ink, which appears to read "Shawn M. Garvin", is positioned above the typed name.

Shawn M. Garvin
Regional Administrator



EVAN H. JENKINS
3RD DISTRICT, WEST VIRGINIA

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

502 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

845 5TH AVENUE
SUITE 152
HUNTINGTON, WV 25701
(304) 522-2201

Congress of the United States
House of Representatives
Washington, DC 20515-4803

February 18, 2015

Ms. Laura Vaught
Associate Administrator for Congressional & Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

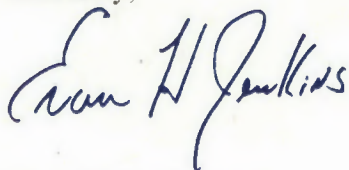
Dear Ms. Vaught:

I have been contacted by (b) (6), Mason County, WV, regarding their efforts for assistance with the enclosed issue.

Since this matter is under your jurisdiction, I am referring it to you for your consideration.

Once you have reviewed the enclosed information, please respond to my Huntington District Office Office at 845 Fifth Avenue, Huntington, WV 25701.

Sincerely,



Evan H. Jenkins
Member of Congress

EHJ/tb
Enclosures

(b) (6)



January 22, 2015

US Representative Evan Jenkins
3rd District WV
502 Cannon House Office Building
Washington, DC 20515

InRe: EPA case #8EHQ-13-19252

Mr. Jenkins,

This case involves over 1000 tons of HAZARDOUS WASTE illegally dumped & buried near Clifton, WV, at least 6 eyewitnesses have stated to witnessing this event.

It has come to my attention that Booth Goodwin, US Attorney in Huntington WV, chooses not to prosecute or pursue those responsible.

I am asking you to check on this and explain why President Obama & Booth Goodwin chooses to ignore this & place the lives of nearby residents at risk?

Thank You

(b) (6)



Phone (b) (6) cell (b) (6)
email: (b) (6) et



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

ML49827

DEC. 19, 2013

Office of
Chemical Safety and
Pollution Prevention

(b) (6)

Dear Submitter:

EPA acknowledges information submitted by your organization under Section 8(e) of the Toxic Substance Control Act (TSCA) was received on September 09, 2013. The TSCA Section 8(e) Case Number assigned to your submission(s) by EPA may be found below. Please cite the assigned 8(e) Case Number when submitting follow up or supplemental information.

Be aware, all TSCA 8(e) submissions are placed in the public files unless confidentiality is claimed according to the procedures outlined in Part X of EPA's TSCA Section 8(e) policy statement (43 FR 1113, March 16 1978). If your submission contains Confidential Business Information, you will need to provide substantiation for your claims. To substantiate claims, if you have not already done so, submit responses to the questions found in the Confidential Business Information section of the TSCA Section 8(e) programmatic homepage:

<http://www.epa.gov/opptintr/tsca8e/pubs/confidentialbusinessinformation.html>

Please address any further correspondence with the Agency related to the enclosed TSCA 8(e) submission(s) to:

TSCA Confidential Business Information Center (7407M)
EPA East - Room 6428 Attn: Section 8(e)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

EPA looks forward to continued cooperation with your organization in its ongoing efforts to evaluate and manage potential risks posted by chemicals to health and the environment.

<u>CBI</u>	<u>8(e) Case Number</u>	<u>Chemical ID</u>
N	8EHQ-13-19252	No CAS # coal tar creosote

CONTAINS NO CBI

EVAN H. JENKINS
3RD DISTRICT, WEST VIRGINIA

502 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

845 5TH AVENUE
SUITE 162
HUNTINGTON, WV 25701
(304) 522-2201

Congress of the United States
House of Representatives
Washington, DC 20515-4803

June 10, 2015

Ms. Laura Vaught, Associate Administrator
Congressional & Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

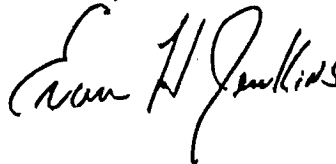
Dear Ms. Vaught:

I have been contacted by Mr. James Sowder, Mobil Mechanx, LLC, regarding his efforts for assistance with the enclosed issue.

Since this matter is under your jurisdiction, I am referring it to you for your consideration.

Once you have reviewed the enclosed information, please respond to my Beckley Office at 223 Prince Street, Beckley, WV 25801.

Sincerely,



Evan H. Jenkins
Member of Congress

EHJ/km
Enclosure

cc: FOIA

05/21/2015

Sabrina Burroughs
FOIA Officer
90 K Street, NE
9th Floor
Washington, DC 20229-1181

JUN 08 2015

Dear Ms. Burroughs:

We are requesting all information for Mobile Mechanx LLC. That is the correct spelling. We are a small US manufacturer and are trying to determine what happen to some of our property. Customs took some of property but was unable to supply documentation on why the property was taken. They seemed to indicate it was due to the EPA but both EPA and customs have been unable to supply any supporting documents as to why the property was taken. Please provide any documentation there is for Mobile Mechanx LLC. with your agency. The property that was taken was done so at the Norfolk Port. It is imperative that we have documents so we can address any issues the EPA or Customs may have. We are in a position now we cannot order again without knowing what the problem is. We will be going out of business if we do not get documents soon. Documentation is also imperative for us to be able to get credit from suppliers if they failed to supply the products in our purchase agreement. Please provide any documentation CBP may have for Mobil Mechanx LLC. We are also including a partial list of property taken. There was other property taken as well but this is all the documents we have.

We took extraordinary measures to ensure all these engines were EPA compliant even though we are not an engine dealer. We sent our inspector to China to inspect all engines for EPA compliance before they were loaded. He inspected and tested all engines for EPA stickers, valid EPA certificates of compliance and inspected all engines. As you can see there are 3 different brands listed. We believe there could have been some mistake made at EPA or CBP. The chances of getting 3 different brand engines with proper stickers and certificates of compliance that are not EPA are one in a billion on its own. The fact that one brand is a major USA company in Kohler who does not make non-compliant engines makes this even more suspect. We can get no credit from suppliers without documentation from whatever agency decided to not allow these engines. Our supplier also said that the Chinese customs will not allow them to come back until we get all the documentation. Most importantly we cannot place any additional orders until we get the documentation on why the property was taken. If there really is an issue, we would have to address it before we could order again with suppliers and engine manufactures. Please expedite this request. We are a small business and will be out of business in a matter of weeks if we are unable to place orders.

Our state, here in West Virginia, is economically challenged to start with. I would have hoped our government would be supporting small businesses and not putting them out of business. That is exactly what is going to happen though, if we are unable to find out why our property was taken by the government.

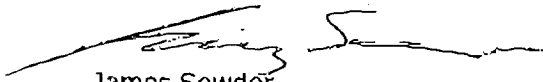
Please send documents to:

Mobil Mechanx LLC
397 Ames Heights Rd.
Lansing, WV 25862

AND

mobilmechanx@gmail.com

Thank you,

A handwritten signature in black ink, appearing to read 'James Sowder', with a long horizontal flourish extending to the right.

James Sowder
Member, Mobil Mechanx LLC

Encl: Customs Seizure List

CC: Senator Joe Manchin III, Senator Shelley Capito, and Representative Evan Jenkins

U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

4016284

CUSTODY RECEIPT for SEIZED PROPERTY and EVIDENCE

Handbook 5200-09

[illegible]

CBP Form 6051A Continuation Sheet Attached? Yes ☐ No ☐

CBP Form 6051S (03/04)

CBP Retains Original



Congressman Evan Jenkins

Kim McMillion, Office Manager

223 Prince Street

Beckley, WV 25801

(304) 250-6177

(304) 250-6179 (fax)

TO: EPA

FAX# 202-501-1519

DATE: 6/10/2015

#of Pages: 5

Message:



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

AUG 27 2015

The Honorable Evan H. Jenkins
Member, U.S. House of Representatives
223 Prince Street
Beckley, West Virginia 25801

Dear Representative Jenkins:

Thank you for your August 4, 2015 letter to the U.S. Environmental Protection Agency (EPA) on behalf of Mayor Reba Honaker regarding the City of Welch's (City's) efforts to comply with the Clean Water Act (CWA).

EPA and the state of West Virginia entered into a federal consent decree with the City and the Welch Sanitary Board on February 6, 2012. The consent decree requires the City to report every January and July to EPA and the state about its compliance efforts. Mayor Honaker's last letter was the City's July report and the information the Mayor provided is consistent with the decree.

If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Mark Ferrell, EPA's West Virginia Liaison, at 304-542-0231.

Sincerely,

A handwritten signature in blue ink, which appears to read "Shawn M. Garvin", is positioned above the printed name.

Shawn M. Garvin
Regional Administrator



Aug. 4. 2015 4:35PM

No. 8498 P. 2

EVAN H. JENKINS
3RD DISTRICT, WEST VIRGINIA

502 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 226-3452

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

845 5TH AVENUE
SUITE 152
HUNTINGTON, WV 25701
(304) 522-2201

Congress of the United States
House of Representatives
Washington, DC 20515-4803

August 4, 2015

Ms. Laura Vaught
Associate Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

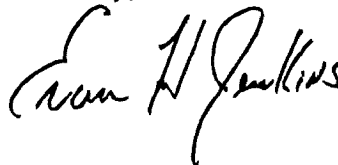
Dear Ms. Vaught:

I have again been contacted by Mayor Reba Honaker, City of Welch, (304) 436-3113, regarding her efforts for assistance with the enclosed issue.

Since this matter is under your jurisdiction, I am referring it to you for your consideration.

Once you have reviewed the enclosed information, please respond to my Beckley Office at 223 Prince Street, Beckley, WV 25801.

Sincerely,



Evan H. Jenkins
Member of Congress

EHJ/km
Enclosure

JUL 16 2015

City of Welch

Welch Municipal Building ● 88 Howard St. ● Welch, WV 24801 ● (304) 436-3113 ● Fax (304) 436-2546

July 13, 2015

File: 7149.21

Mr. Phillip Yeany
Assistant Regional Council
Environmental Protection Agency
1625 Arch Street
Philadelphia, PA 19103

Dear Mr. Yeany,

Re: United States vs. City of Welch, CSO Report
First Semi-Annual Report 2015

Contract 8B is still open for improvements at the Waste Water Treatment Plant.

We have smoke tested for Contract 8B, 8C, and 8D areas in August and September 2014 to verify which customers still have improper connections to the new sanitary sewer. Once these have been identified we will notify the customers by letter of the requirement to remove their illegal connection where technically and economically feasible in the future.

In June – September 2015 we will analyze the impact of the improper connection removal in Contract 8B, 8C, and 8D. Initial review indicates our peak flows have been reduced. We anticipate notifying customers to remove sources of extraneous flows where feasible in 2015 – 2016.

The Sanitary Board has evaluated various bar screen manufacturers and their efficiency of removals. We authorized preparation of bidding documents and advertising of the screen for procurement and our installation. This was approved by WVDEP in September of 2014. This work was completed in May 2015 and appears to be working satisfactorily.

The grit removal unit is currently fully functional. We anticipate the amount of grit received will be significantly reduced as a result of the separation on Contract No. 8B, 8C and 8D. We will continue to

Mr. Yeany
July 13, 2015
Page 2 of 3

analyze the volume of grit removed and make a determination in July 2015 of other actions which need to be taken. The city has authorized the installation of an automatic pulley device in the grit removal unit.

We have just found a damaged top section of a manhole in Elkhorn Creek which contributed inflow into the system. Temporary repairs have been made. We plan to modify this in the fall.

The City believes the Semi-Annual Reports satisfied the terms and conditions of the Consent Decree.

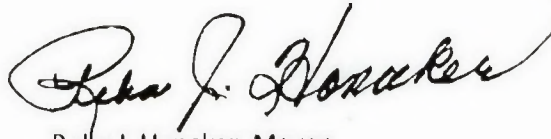
Attached is the CSO Inspection Report which summarizes the discharges from the active CSO's in the City system for the last six months and CSO Summary Report.

The City of Welch has been making enormous efforts to improve water quality and will continue to do so.

We can schedule a conference call at your convenience.

Please accept this as the First Semi-Annual Report of 2015.

Sincerely,



Reba J. Honaker, Mayor

City of Welch

Enclosures

CC:

Governor Earl Ray Tomblin
Bobby Lewis, RUS-USDA
Sherry Adams, US Corps if Engineer
James Bush, ARC
Kathy Emory, PE, WVDEP
Elbert Morton, PE, WVIJDC
Robert Fentress, DOJ
Steve Maslowski, EPA
Donald Lewis, WVDEP
Edward L. Shutt, PE, Stafford Consultants, Inc.
Senator Joe Manchin
Senator Shelly Moore Capito
✓ Congressman Evan Jenkins
Chris Jarrett, WDA
Jim Ellars, PE, WVIJDC
Kelly Workman, WVDO

Mr. Yeany
July 13, 2015
Page 3 of 3

cc. w/o encl:

Janna Lowery, USDA
Michele Price-Fay, USEPA
Chuck Fogg, EPA
Jeremy Bandy, WVDEP
John Frederick, WVDEP
Joe Hickman, WVDEP
Mike Zeto, WVDEPO
Walt Ivey, PE, WVBPH
Paul Mattox, PE, WVDOT
West Virginia Public Service Commission
Ashby Lynch, Sanitary Board
Claude Banner, Sanitary Board
Mike Day, City Council
Fred Odum, City Council
William Spencer, City Council
Steve Ford, City Council
Vicki McBride, City Council
Jason Roberts, Region 1 Planning and Development Council
Matthew Peters, Stafford Consultants, Inc.
Richard Osborne, Stafford Consultants, Inc.
Tim Carver, WWTP Supervisor
Jack Whittaker, Supervisor

Waste Water Treatment Plant

CSO Visual Inspection Report Flow Discharge

CSO #	SIZE	STATUS	Visual	2009	2010	2011	2012	2013	2014	2015	LOCATION DESCRIPTION	PLANNED FOR REMOVAL
2	24	Functional										
3	8	Capped	0	0	0	0	0	0	0	0	Main Lift Station	Under Evaluation
4	15	Capped	0	0	0	0	0	0	0	0	Bottom of Hemp Hill	Removed November 2005
5	24	Functional	5	8	13	5	2	12	12	3	Behind Pendry's Body Shop	Removed March 2009
6	18	Capped	0	0	0	0	0	0	0	0	At Flood Wall	Under Evaluation
7	12	Functional	8	8	4	1	0	0	0	0	Behind Flat Iron Pharmacy	Removed March 2008
8	12	Capped	14	14	12	8	1	0	0	0	Behind 83 Summers St	Under Evaluation
9	12	Capped	8	13	7	4	0	0	0	0	Behind 149 Summers St	Removed April 16 2014
10	12	Capped	16	13	11	0	0	0	0	0	Clubhouse Summers St	Removed April 16 2014
11	8	Capped	0	0	0	0	0	0	0	0	97 Lake Drive	Removed January 2012
12	12	Capped	0	0	0	0	0	0	0	0	Across from VET. Memorial	Removed November 2006
13	10	Capped	1	2	1	1	0	0	0	0	Behind SHIELDS AUTO	Removed November 2006
14	18	Capped	13	15	9	8	3	0	0	0	Hoppy Horne's	Removed December 2013
15	18	Capped	8	10	6	6	0	0	0	0	Entrance to SOUTHWOOD	Removed April 2014
16	24	Capped	0	0	0	0	0	0	0	0	1033 Riverside Drive	Removed April 2014
17	15	Capped	0	0	0	0	0	0	0	0	Bridge McDowell & Stewart	Removed November 2006
18	15	Capped	0	0	0	0	0	0	0	0	Behind Almyon Stewart St.	Removed March 2008
20	15	Capped	45	0	0	0	0	0	0	0	Entrance To Edmore	Removed November 2006
21	15	Capped	0	0	0	0	0	0	0	0	Under Bridge Downtown	Removed January 2010
23	12	Capped	13	7	0	0	0	0	0	0	At Mikes Powerhouse Gym	Removed April 2009
24	15	Capped	8	9	4	0	0	0	0	0	Near State Farm Ins.	Removed July 2010
25	18	Capped	0	0	0	0	0	0	0	0	PHEONIX CENTER	Removed May 2 2012
26	12	Capped	4	2	0	0	0	0	0	0	Court Street Bridge	Removed July 2008
27	12	Capped	5	1	0	0	0	0	0	0	Across From AEP Co.	Removed April 2010
28	18	Capped	0	0	0	0	0	0	0	0	Behind Old Wolf Tire	Removed May 2010
29	15	Capped	0	0	0	0	0	0	0	0	Below Jim's Engine	Removed November 2006
											Below Save A Lot	Removed November 2006

**Note: Flow meter reading inaccurate for this period it has been replaced and being calibrated. * Note: flow meter reading is total for 1st Half.

TOTAL RAINFALL: CSO # 2 56,957,530 **NOTE

SHOP: CSO # 5 384,563

WWTP: 2349 CSO # 7 7,084,

* NOTE: Flow Meter

Jack Whitaker -- Superintendent

Timothy D. Carver Chief WWTP OPERATOR



CSO Summary Report**CSO Community: City of Welch Sanitary Board****Reporting Period: January 1, 2015 – June 30, 2015****Prepared By: Paul Turpin, Collection System Foreman****Date Submitted: July 9, 2015****Comments on Nine Minimum Controls activity during the past reporting period**

- 1) **O&M Plan** – The Welch Sanitary Board is continuing the implementation of an O & M plan as per letter received from Donald Lewis W.V. DEP Division of Water and Waste Management dated December 19, 2005. The O&M plan is currently being modified by Stafford consultants.
- 2) **Maximize storage in collection system** – The City of Welch has purchased a new sewer camera and is inspecting the major collection lines to determine the excess storage capacity of the system.
- 3) **Review and modification of pretreatment requirements** – The Wastewater Treatment Plant has reached an agreement with the contractors who haul the non-domestic waste to our system. They will be notified by phone and fax stating, "The City of Welch is not receiving non-domestic waste during this rain event".
- 4) **Maximization of flow to POTW for treatment** – The pumps at the main lift station where reset to run at their max rpm when a rain event occurs.
- 5) **Elimination of CSO dry weather events** – We have had no dry weather openings since monitoring began in 2001.
- 6) **Control of solids and floatable materials** – The City of Welch has no devices at this time to control solids and floatable materials. Designs for systems to eliminate or control these items are being investigated in conjunction with Stafford Consultants, Inc.
- 7) **Pollution prevention** – We inspect each of our grease traps on a monthly basis to ensure that the customers are regularly disposing of the grease. We are looking at informing the public to how they can help control the pollution prevention process.
- 8) **Public notification** – A newspaper ad is printed annually informing the public of the dangers and hazards of the CSO's. There is also information in City Hall available to the public. A public meeting was held 10-21-09 to address any CSO complaints and offer the public more information on the CSO's.
- 9) **Monitoring to characterize CSO impacts** – We have taken no samples to date after a discharge.

Wet Weather Events

- 10) **Number of CSO wet weather events that occurred during the last reporting Period** – The City of Welch recorded a total of (34) wet weather events during the report period.
- 11) **Estimated duration of CSO discharge (gallons or time)** 57,349,177 gallons
- 12) **Number of CSO wet weather events YTD -** 36

CSO Summary Report**Dry Weather Events**

- 13) Number of CSO dry weather events occurred during the last reporting period – none
- 14) Date(s) of dry weather event(s) – N/A
- 15) Cause(s) of the discharge(s) – N/A
- 16) Summarize actions taken to flush, recover or treat residual material – N/A
- 17) Corrective action taken to prevent recurrence – N/A
- 18) Number of CSO dry weather events occurred YTD - none

- 19) How are CSO outfall discharges determined during the weekends? All CSO's Have flow meters installed Checked at the end of every month.

- 20) In what ways is I/I being eliminated? i.e. elimination of roof drains, Manhole rehabilitation, etc. CSO 024 Was Removed May 2012. CSO. CSO 009,013,014,015 Were removed in May 2014 The City of Welch has been informing the public and its customers of their responsibility to remove their storm water from the sanitary sewer system. The City of Welch will be billing a storm water surcharge in the near future to customers with gutters and down spouts still connected to the sanitary sewer system. This should give the effected customers added incentive to separate their storm water from the sanitary sewer system

- 21) In what ways are solids and floatable material being controlled? i.e. cleaning Of streets, cleaning of catch basins, trash racks, outfall booms, etc. The streets are cleaned on a monthly basis and the catch basins are cleaned as needed by the City of Welch Street Department.

- 22) Do all CSO outfalls have posted warning signs? Yes

- 23) Has there been any change in the Operation and Maintenance Program? i.e. change in inspection/repair records, equipment list, procedures/letters, Drawings, personnel, etc.

The City of Welch has more formalized CSO inspection log. The city has also purchased a new sewer camera and utility van.

- 24) Summarize the status of the following project work activities.

Water Quality Study: The study was completed in 2006

Long Term Control Plan: The City of Welch Sanitary Boards LTCP has been submitted to Steve Maslowski, Enviromental Protection Agency, Region III and Donald Lewis with the WV DEP and is awaiting joint approval by both agencies.

- 25) Has annual newspaper notification been published? yes

- 26) Are there CSO pamphlets available for distribution to the public? yes

CSO Summary Report

Provide copies of inspection forms for inspecting CSO discharges. Information on forms should include:

- 1) Name of inspector**
- 2) Time and date of inspection**
- 3) Outfall No.(s)**
- 4) Comment about whether discharging or not**
- 5) Estimated starting and stopping times of discharge**
- 6) Estimated total volume (time) of material discharge**
- 7) Estimated rainfall for previous 24 hours**
- 8) Submit copy of any submitted 24 hour spill report**

**Note: CSO's 003,004, 006,009 011, 012,013,014,015 016, 017, 018, 020, 021,024 025, 028 and 029 have been removed from our system.
Feel free to call if you have any questions, (304) 436-2009.**

Paul Turpin Collection System Forman



Congressman Evan Jenkins

Kim McMillion, Office Manager

223 Prince Street

Beckley, WV 25801

(304) 250-6177

(304) 250-6179 (fax)

TO: EPA

FAX# 202-501-1519

DATE: 8/4/2015

#of Pages: 9

Message:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 30 2016

OFFICE OF
AIR AND RADIATION

The Honorable Evan Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your June 28, 2016, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the petitions for small refinery hardship relief submitted by Ergon-West Virginia, Inc. (EWV). The Administrator asked that I respond on her behalf.

The EPA treats its decisions on small refinery petitions for exemption from the Renewable Fuel Standard (RFS) as confidential business information (CBI). For that reason I cannot share specifics about our decisions on the Ergon refineries with you. However, I can tell you that we issued a decision responding to EWV's petition for small refinery hardship relief for 2014 and 2015 on June 30, 2016. EWV also petitioned for small refinery hardship relief for 2016. This petition remains under evaluation.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Pat Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

A handwritten signature in blue ink, which appears to read "Janet G. McCabe", is positioned above the typed name.

Janet G. McCabe
Acting Assistant Administrator

United States Senate

WASHINGTON, DC 20510

June 28, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to request your support for the Petition for Small Refinery Hardship Relief recently submitted by Ergon West Virginia, Inc. ("Petitioner").


The small refinery hardship standard was reinterpreted under an Addendum to the Small Refinery Exemption Study issued in May 2014 without public notice or comment. This reinterpretation is inconsistent with Congress' intent.

Congressional intent regarding small refinery hardship was reiterated in the Omnibus legislation signed into law December 18, 2015 (P.L. 113-114). Specifically, Congress stressed that it did not intend for small refineries to bear a higher cost for compliance with the RFS than large refiners, and the ability of a small refiner to comply and remain profitable does not justify a higher cost of compliance.

Ergon West Virginia, Inc. is experiencing disproportionate costs of compliance with the RFS that are largely attributable to its disproportionate production of diesel fuel relative to the production of gasoline. Refiners like Ergon West Virginia, Inc. who disproportionately produce more diesel fuel than the industry average, cannot generate enough RINs through blending because of the limitations on how much biodiesel can be blended into diesel. Because obligations under the RFS program are calculated on combined gasoline and diesel production, the petitioners are then forced to buy RINs to comply. In other words, Ergon West Virginia is losing money on each gallon of diesel fuel they produce.

We respectfully request that the EPA, in consultation with DOE, grant the Petitioner's requested relief from their disproportionately high compliance costs under the RFS requirements. Thank you for your consideration.

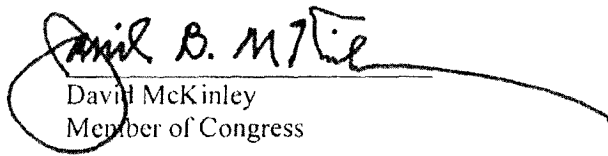
Sincerely,

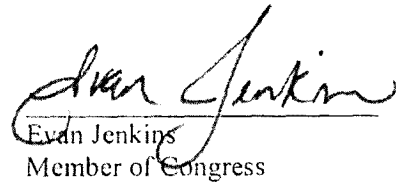


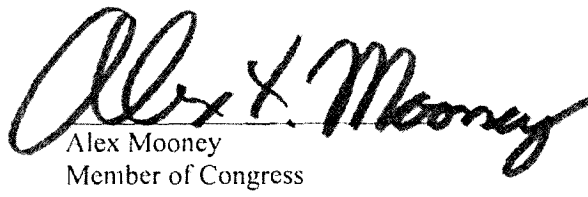
Joe Manchin III
United States Senator



Shelley Moore Capito
United States Senator


David McKinley
Member of Congress


Evan Jenkins
Member of Congress


Alex Mooney
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 29, 2016

OFFICE OF
AIR AND RADIATION

The Honorable Evan H. Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of June 23, 2016, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the Supreme Court stay of the Clean Power Plan (CPP) and assistance the EPA is providing to states while the stay is in effect. The Administrator asked that I respond on her behalf.

On February 9, 2016, the Supreme Court stayed the CPP pending judicial review before the U.S. Court of Appeals for the D.C. Circuit and any subsequent proceedings in the Supreme Court. The EPA firmly believes the Clean Power Plan will be upheld when the courts address its merits because it rests on strong scientific and legal foundations. However, it is clear that no one has to comply with the Clean Power Plan while the stay is in effect. During the pendency of the stay, states are not required to submit anything to the EPA, and the EPA will not take any action to impose or enforce any such obligations. For example, we clearly communicated to states that they were not required to make initial submittals on September 6, 2016.

On June 16, 2016, Administrator McCarthy signed a proposed rule providing details about the optional Clean Energy Incentive Program (CEIP). When final, this will help guide states and tribes that choose to participate in the CEIP when the Clean Power Plan becomes effective. You asked a number of questions about the EPA's legal authority to proceed with the CEIP and other matters related to the CPP. In Section II of the preamble, we discuss why we are issuing the CEIP Design Details proposal, including the legal authority for doing so while the stay is in effect. The proposal is currently out for public comment and is available at <https://www.epa.gov/cleanpowerplan/clean-energy-incentive-program>. The proposal published in the Federal Register June 30, 2016. The EPA has extended the public comment period an additional 60 days until November 1, 2016. We held a public hearing in Chicago on August 3, 2016. We encourage interested parties to submit comments, identified by Docket ID No. EPA-HQ-OAR-2016-0033. As with all the EPA's rulemakings, we will take the concerns expressed at these hearings, as well as those expressed in written comments into consideration as we move forward.

With respect to other activities, EPA intends to continue providing assistance to states, while being clear that we will respect the stay so long as it is in effect.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or at (202) 564-2998.

Sincerely,



Janet G. McCabe
Acting Assistant Administrator

Congress of the United States
Washington, DC 20515

June 23, 2016

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We write regarding the Supreme Court's orders granting applications from states and stakeholders to stay the "Clean Power Plan" (CPP) and your statements in a March 2016 congressional hearing on the implications of the Court's action. Specifically, we seek clarification to ensure that your statements do not result in states and other stakeholders expending scarce resources to unnecessarily comply with the CPP's deadlines. It is our belief that such actions would undermine the very purpose of the Court's orders.

As you know, five applications for relief were submitted to the Court, each requesting a stay of the CPP. One of those applications also explicitly requested "an immediate stay of EPA's rule, extending all compliance dates by the number of days between publication of the rule and a final decision by the courts, including this Court, relating to the rule's validity." Another asked that the CPP be "be stayed, and all deadlines in it suspended, pending the completion of all judicial review." Every brief opposing the applications acknowledged the requests to extend the compliance deadlines.

Moreover, long-held precedence recognizes that any request for stay carries with it the inherent tolling of all compliance deadlines if that stay were lifted. Thus, the Department of Justice stated in its brief, "In requesting a 'stay,' however, applicants . . . *explicitly or implicitly* ask this Court to toll all of the relevant deadlines set forth in the Rule, even those that would come due many years after the resolution of their challenge, for the period between the Rule's publication and the final disposition of their lawsuits" (emphasis added). In fact, the Department of Justice told the Court that granting the applications "would *necessarily and irrevocably* extend every deadline set forth in the Rule" (emphasis added).

On February 9, 2016 the Court issued five separate and virtually identical orders on the applications. Each order stated, "The application for a stay . . . is granted." We agree with the Department of Justice that in granting these applications without limitation, the Supreme Court both stayed the CPP and necessarily and irrevocably extended all related CPP compliance deadlines.

In a March 22, 2016 hearing before two House Energy and Commerce subcommittees, you were asked whether—if the CPP was upheld—the various compliance deadlines would also be extended by the amount of time equal to the completion of judicial review. In your response, you

stated, “Well that’s not what the Supreme Court said, but we assume that the courts will make that judgement over time or will leave that to EPA to make their own judgement.” When pressed further, you responded by saying, “. . . the Supreme Court didn’t speak to that issue. The only thing they spoke to was the stay of the rule. They didn’t speak to any tolling or what it meant in terms of compliance time.”

As the Department of Justice’s own conclusions make clear, the Court did speak to tolling when it granted the applications for relief that explicitly or implicitly requested the tolling of compliance deadlines. Those Court orders necessarily and irrevocably extended the CPP’s deadlines, allowing states to hit “pause” on compliance measures during legal challenge of the CPP, so that states are not required to spend billions of dollars on immense, and in many cases irreversible, actions to implement a regulation that may never come. This harm is what drove petitioners to request relief from the Supreme Court in the first place.

We are concerned that your statements before Congress undermine the certainty that the American people deserve and the Supreme Court was seeking to provide when it granted applications to stay the CPP and toll its deadlines. If ambiguity here drives states and stakeholders to meet all CPP compliance deadlines anyway, then the Court’s action will be meaningless.

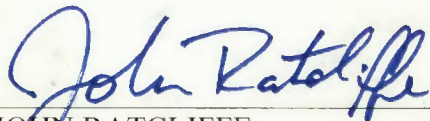
In order to provide clarity to the states, utilities, and other critical stakeholders, we respectfully ask you to provide answers to the following questions:

1. Two of the applications for relief from the CPP submitted to the Supreme Court explicitly asked the Court to extend all CPP deadlines for a period equal to that of the stay. The Department of Justice concluded that all of the applications made the same request, if not explicitly, then implicitly. The Court granted these requests for relief without any limitation. How do you reconcile these facts with your claim that “the Court didn’t speak to any tolling”?
2. Did any EPA official review the Department of Justice’s brief in response to the applications before that brief was submitted to the Supreme Court?
3. At any point before the Supreme Court issued its orders on February 9, 2016, did any EPA official object to language in the Department of Justice’s brief concluding that granting the stay “would necessarily and irrevocably extend every deadline set forth in the Rule”? Does EPA now disagree with that conclusion? If so, please provide EPA’s official legal interpretation.
4. Is EPA relying on specific precedent to conclude the stay order does not toll all deadlines outlined in the final CPP rule? If so, include any such examples or case law in EPA’s interpretive memo as requested in question 3 above.
5. If EPA does not disagree with the Department of Justice’s conclusion that the relief requested and granted by the Court “necessarily and irrevocably” extends all CPP deadlines, then what steps is EPA taking to prepare to extend all CPP deadlines in the event the stay is lifted?

6. Why is it necessary for the Court's orders staying the CPP to "speak to any tolling" if, by the Department of Justice's own admission, those orders "implicitly," "necessarily," and "irrevocably" "extend every deadline set forth in the Rule"?
7. The Supreme Court stayed the CPP to prevent states and stakeholders from being irreparably harmed by the rule's deadlines during the judicial challenge. How would the Court's order protect states and stakeholders from irreparable harm if, upon reinstatement of the rule, those states and stakeholders did not receive an equivalent length of time to comply with the CPP?
8. EPA officials have stated the agency is developing regulations expressly related to and arising out of the final CPP, specifically the Clean Energy Incentive Plan (CEIP). The program is intrinsically linked to the implementation of the CPP and a public request for comment through issuing a proposed rule would effectively obligate stakeholders to the current CPP litigation to dedicate resources to study and comment on the proposed regulation. Given that the CEIP's fate is directly tied to the CPP litigation, what authority is the EPA relying on to conclude these actions do not contravene the Supreme Court's stay of CPP?

We look forward to your response on this matter.

Sincerely,



JOHN RATCLIFFE
Member of Congress



BRUCE WESTERMAN
Member of Congress



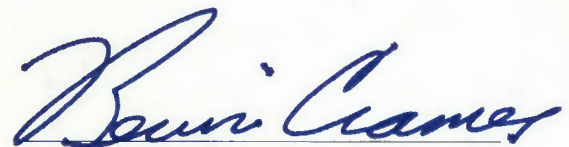
MIMI WALTERS
Member of Congress



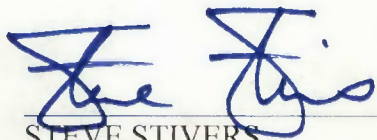
CYNTHIA M. LUMMIS
Member of Congress



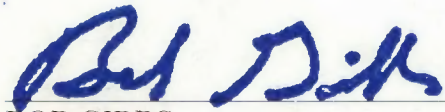
DAVID B. MCKINLEY, P.E.
Member of Congress



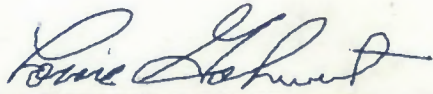
KEVIN CRAMER
Member of Congress



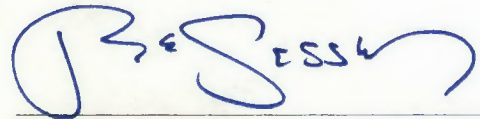
STEVE STIVERS
Member of Congress



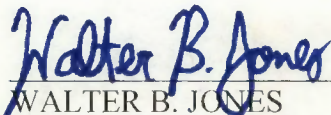
BOB GIBBS
Member of Congress



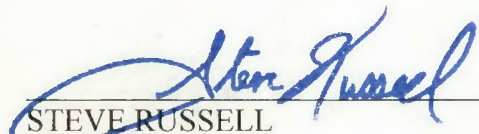
LOUIE GOHMERT
Member of Congress



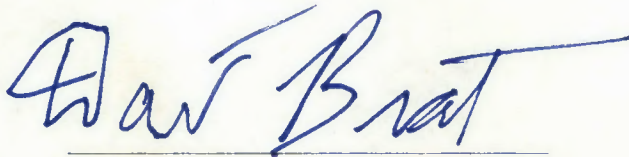
PETE SESSIONS
Member of Congress



WALTER B. JONES
Member of Congress



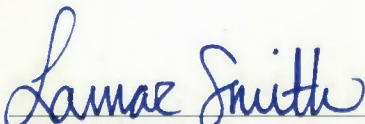
STEVE RUSSELL
Member of Congress



DAVE BRAT
Member of Congress



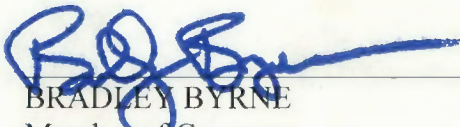
TRENT FRANKS
Member of Congress



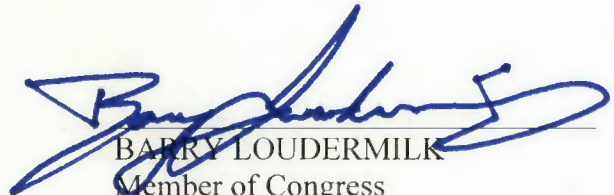
LAMAR SMITH
Member of Congress



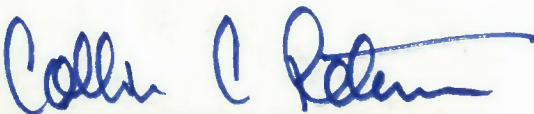
SEAN P. DUFFY
Member of Congress



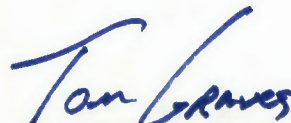
BRADLEY BYRNE
Member of Congress



BARRY LOUDERMILK
Member of Congress



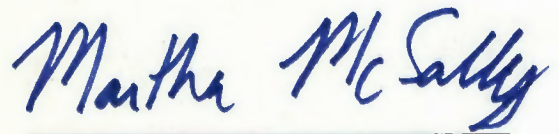
COLLIN C. PETERSON
Member of Congress



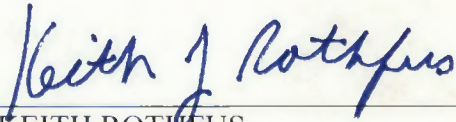
TOM GRAVES
Member of Congress



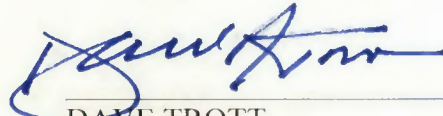
PAUL A. GOSAR
Member of Congress



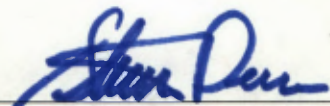
MARTHA MCSALLY
Member of Congress



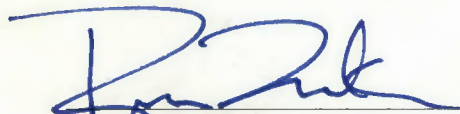
KEITH ROTHFUS
Member of Congress



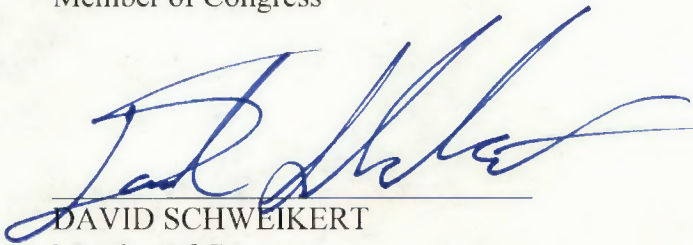
DAVE TROTT
Member of Congress



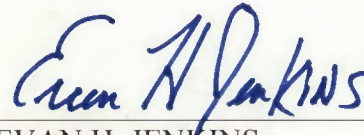
STEVE PEARCE
Member of Congress



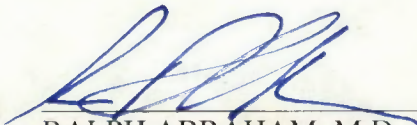
RYAN ZINKE
Member of Congress



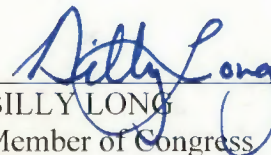
DAVID SCHWEIKERT
Member of Congress



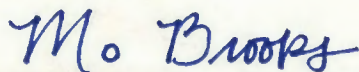
EVAN H. JENKINS
Member of Congress



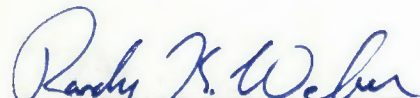
RALPH ABRAHAM, M.D.
Member of Congress



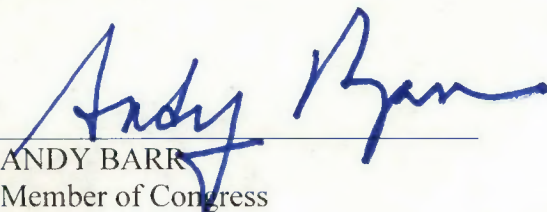
BILLY LONG
Member of Congress



MO BROOKS
Member of Congress



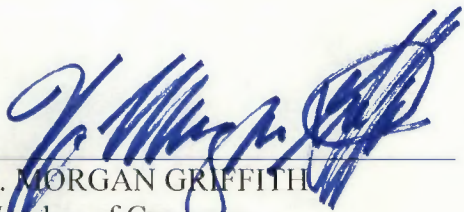
RANDY WEBER
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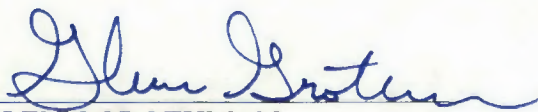
ANDY BARR
Member of Congress




TRENT KELLY
Member of Congress



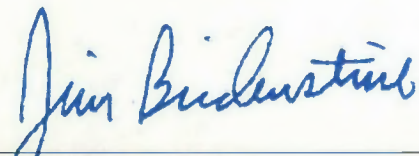
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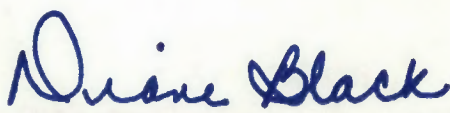
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FRANK LUCAS
Member of Congress




JIM BRIDENSTINE
Member of Congress



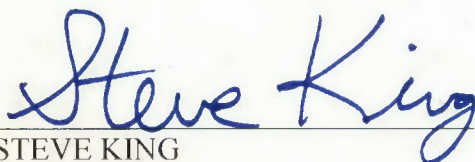
DIANE BLACK
Member of Congress



JEFF DUNCAN
Member of Congress



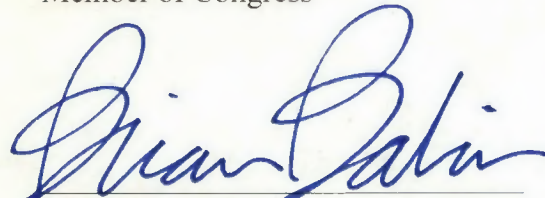
JIM RENACCI
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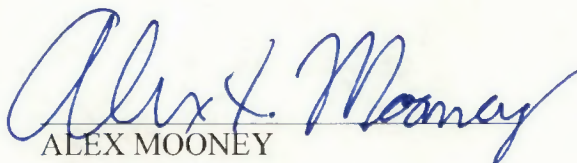
STEVE KING
Member of Congress



JOE BARTON
Member of Congress




BRIAN BABIN
Member of Congress



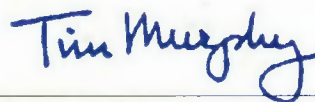
ALEX MOONEY
Member of Congress



JACKIE WALORSKI
Member of Congress



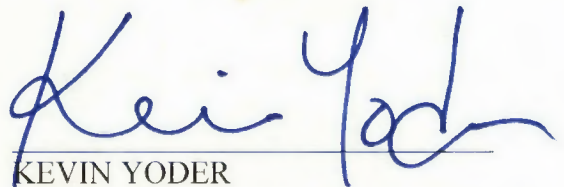
PETER T. KING
Member of Congress



TIM MURPHY
Member of Congress



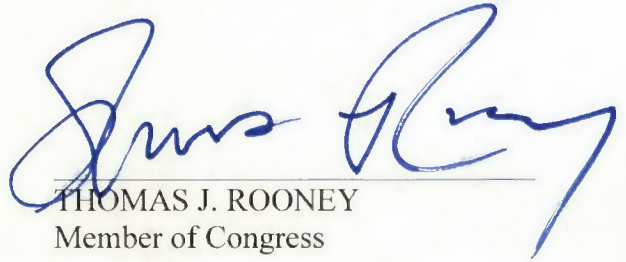
STEVE CHABOT
Member of Congress



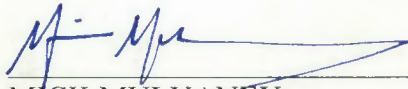
KEVIN YODER
Member of Congress



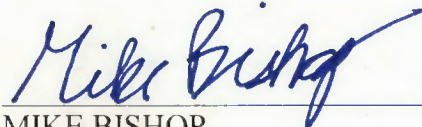
JOHN CULBERSON
Member of Congress



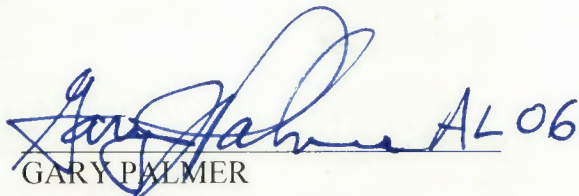
THOMAS J. ROONEY
Member of Congress



MICK MULVANEY
Member of Congress



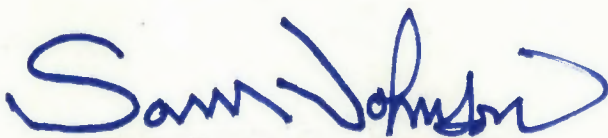
MIKE BISHOP
Member of Congress

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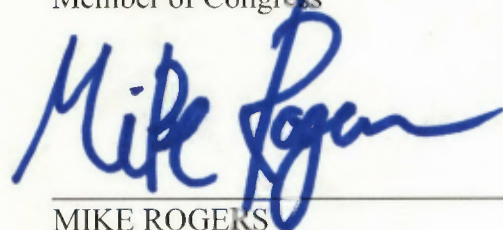
GARY PALMER
Member of Congress



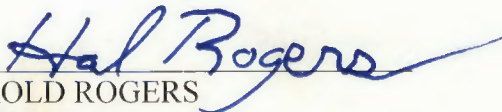
LYNN JENKINS, CPA
Member of Congress



SAM JOHNSON
Member of Congress



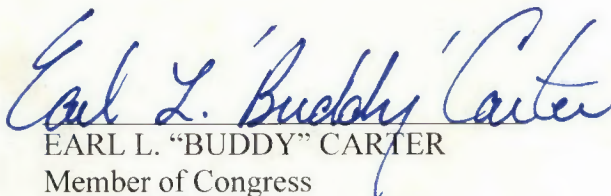
MIKE ROGERS
Member of Congress



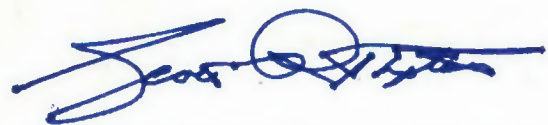
HAROLD ROGERS
Member of Congress



LUKE MESSER
Member of Congress



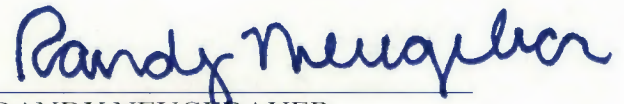
EARL L. "BUDDY" CARTER
Member of Congress



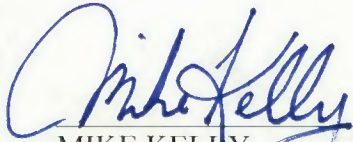
SCOTT TIPTON
Member of Congress



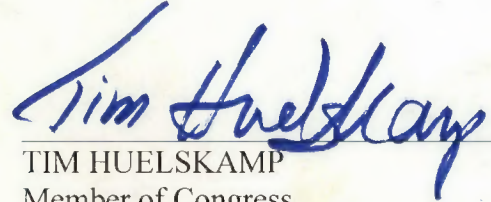
BOB GOODLATTE
Member of Congress



RANDY NEUGEBAUER
Member of Congress



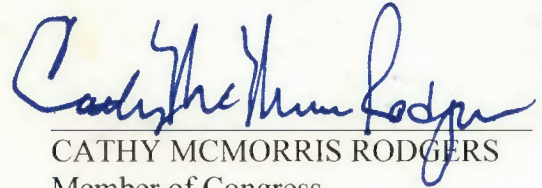
MIKE KELLY
Member of Congress



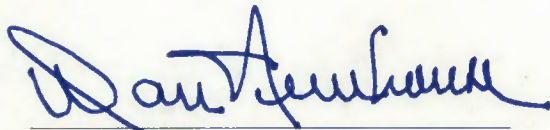
TIM HUELSKAMP
Member of Congress



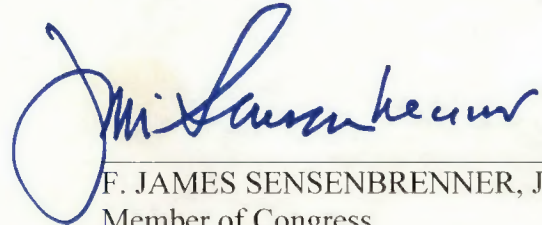
MICHAEL T. MCCAUL
Member of Congress



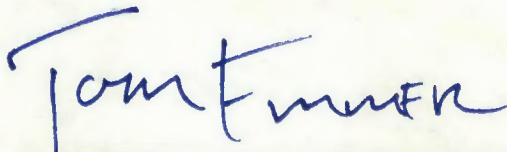
CATHY MCMORRIS RODGERS
Member of Congress



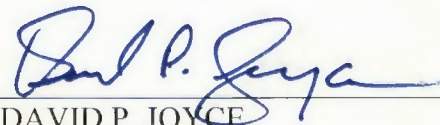
DAN NEWHOUSE
Member of Congress



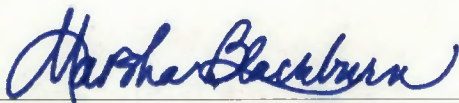
F. JAMES SENSENBRENNER, JR.
Member of Congress



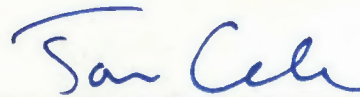
TOM EMMER
Member of Congress



DAVID P. JOYCE
Member of Congress



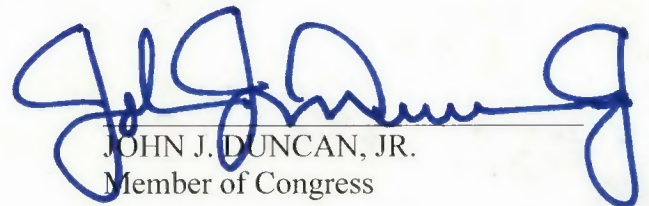
MARSHA BLACKBURN
Member of Congress



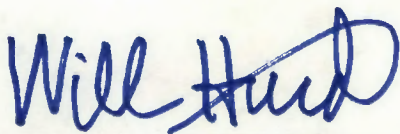
TOM COLE
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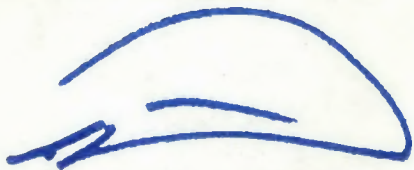
TOM MCCLINTOCK
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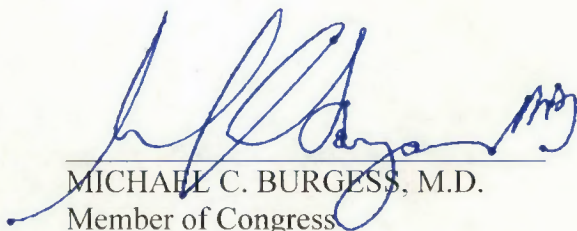
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Member of Congress



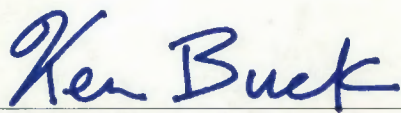
WILL HURD
Member of Congress



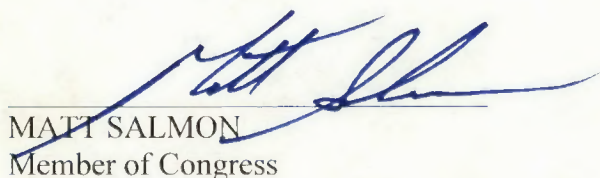
SCOTT DESJARLAIS, M.D.
Member of Congress



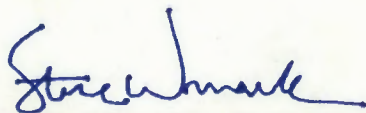
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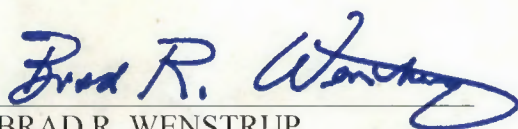
KEN BUCK
Member of Congress



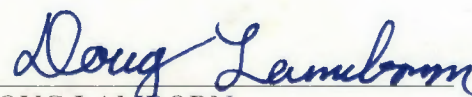
MATT SALMON
Member of Congress



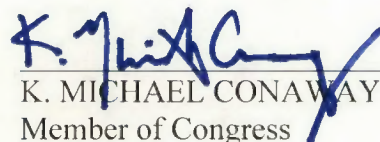
STEVE WOMACK
Member of Congress



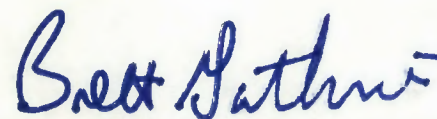
BRAD R. WENSTRUP
Member of Congress



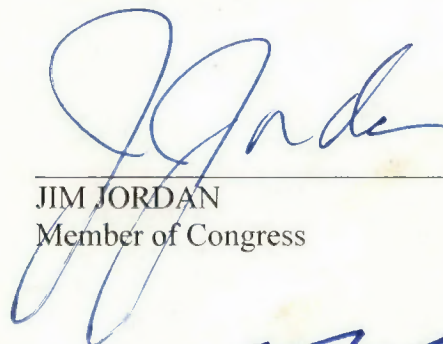
DOUG LAMBORN
Member of Congress



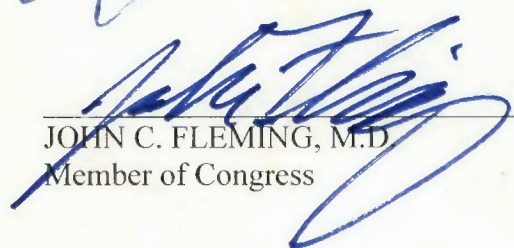
K. MICHAEL CONAWAY
Member of Congress



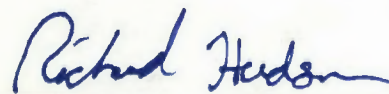
BRETT GUTHRIE
Member of Congress



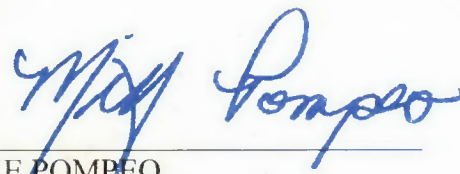
JIM JORDAN
Member of Congress



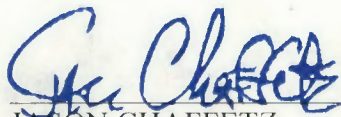
JOHN C. FLEMING, M.D.
Member of Congress



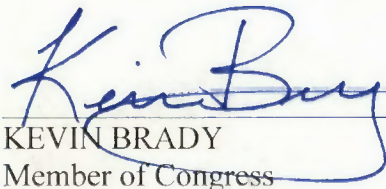
RICHARD HUDSON
Member of Congress



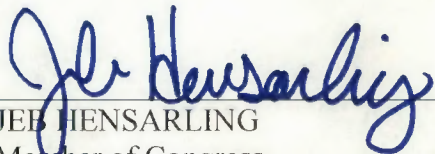
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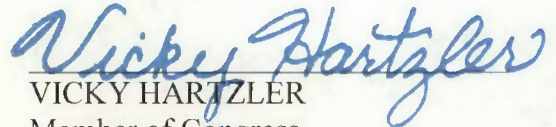
JASON CHAFFETZ
Member of Congress



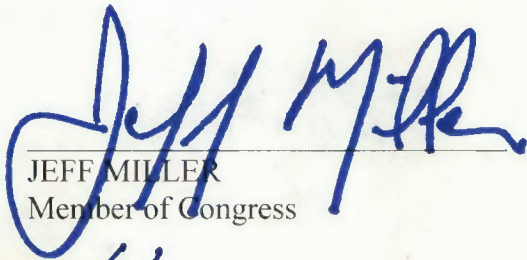
KEVIN BRADY
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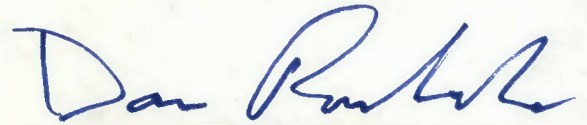
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Member of Congress



VICKY HARTZLER
Member of Congress



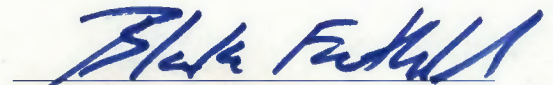
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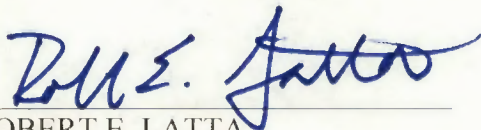
DANA ROHRABACHER
Member of Congress



KAY GRANGER
Member of Congress



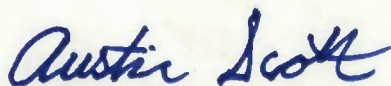
BLAKE FARENTHOLD
Member of Congress



ROBERT E. LATT
Member of Congress



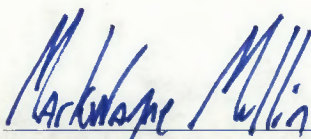
SAM GRAVES
Member of Congress



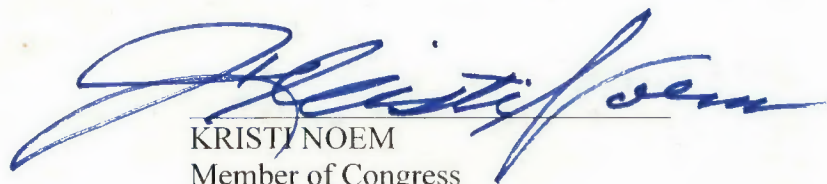
AUSTIN SCOTT
Member of Congress



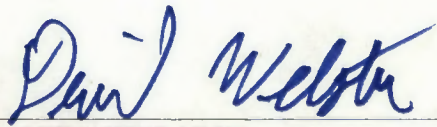
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MARKWAYNE MULLIN
Member of Congress



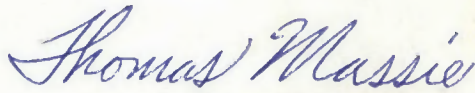
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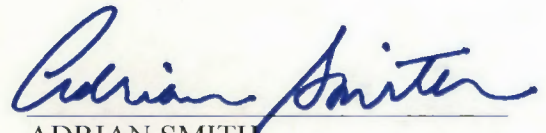
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Member of Congress



BLAINE LUETKEMEYER
Member of Congress



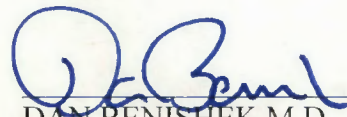
THOMAS MASSIE
Member of Congress



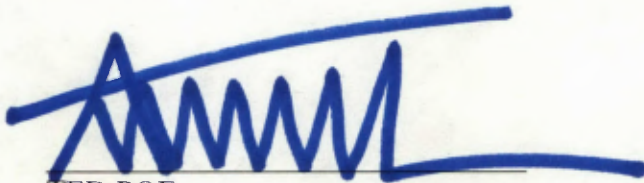
ADRIAN SMITH
Member of Congress



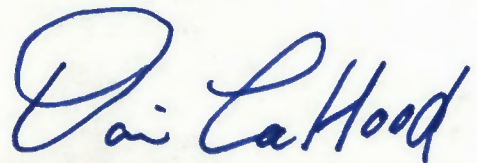
BILL FLORES
Member of Congress



DAN BENISHEK M.D.
Member of Congress



TED POE
Member of Congress



DARIN LAHOOD
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 19, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Evan Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of March 27, 2018, to U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt, regarding your concerns with the proposed repeal of emission requirements for glider vehicles, glider engines and glider kits. The Administrator asked me to respond on his behalf.

The Agency takes very seriously the impacts of regulatory changes on businesses and communities throughout the United States, and we are aware of the importance of regulatory certainty for the heavy-duty truck industry. We received thousands of comments on our proposal, many of which shared your concerns about potential adverse impacts on businesses outside of the glider industry. We are currently reviewing the comments to determine the appropriate next steps for this rulemaking. We have added your letter to the rulemaking docket, where it will be part of the public record.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyl in EPA's Office of Congressional and Intergovernmental Relations at thundiyl.karen@epa.gov or 202-564-1142.

Sincerely,

A handwritten signature in black ink, which appears to read "W L Wehrum", is positioned above the printed name.

William L. Wehrum
Assistant Administrator

Congress of the United States
Washington, DC 20515

March 27, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
Office of the Administrator 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

We stand with you and welcome your continued efforts to streamline environmental regulations and repeal onerous and overreaching rules that the previous administration pushed through which hurt American industry. However, we write to raise concerns with the EPA's proposed rule for repeal of emission requirements for glider vehicles, glider engines, and glider kits. We believe that repealing those requirements will undermine the significant investments made by United States job creators and manufacturers.

We have seen what happens when overreaching and even illegal regulations are issued that go against the intent of the Clean Air Act. Regulations issued under the Clean Air Act must not exceed the authority Congress has provided. We believe that EPA still has the ability to work within this authority of the Clean Air Act to implement clear, concise, and straightforward rules regarding emissions from gliders. Eliminating this rule also runs the risk that a court would impose requirements beyond what the previous administration negotiated with industry, which could undermine the remanufacturing and rebuilding industries resulting in the loss of countless jobs across the United States.

We respectfully ask that you carefully consider the negative impacts if the authority to implement reasonable regulation of gliders is now repealed.

Sincerely,



Mark Sanford
Member of Congress



Evan Jenkins
Member of Congress



Larry Bucshon, M.D.
Member of Congress



Susan W. Brooks
Member of Congress


Congress of the United States
Washington, DC 20515



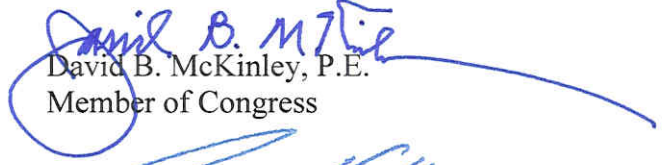
David Rouzer
Member of Congress



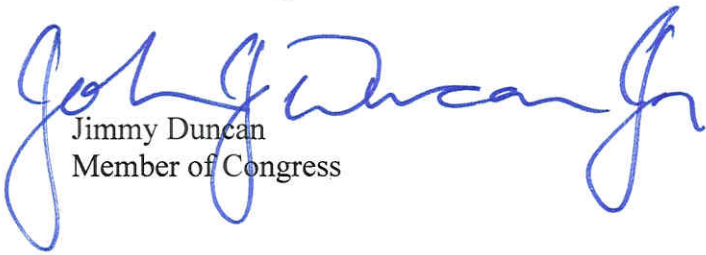
David Valadao
Member of Congress



Tom Emmer
Member of Congress



David B. McKinley, P.E.
Member of Congress



Jimmy Duncan
Member of Congress



Trey Hollingsworth
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 11 2015

OFFICE OF WATER

The Honorable Evan H. Jenkins
House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your letter of November 19, 2015, to the U.S. Environmental Protection Agency on behalf of the Region 1 Planning and Development Council. The EPA appreciates your strong commitment to our work to improve water quality while strengthening communities through the Urban Waters Small Grants Program.

Urban Waters Small Grants are awarded through an open competition process. At this stage in our review of applications, we are evaluating proposals to determine if they meet Threshold Eligibility Criteria as described in Section III.C of the Request for Proposals. All eligible applications will then be reviewed based on the Selection Criteria, as described in Section V of the RFP, for ranking and funding consideration.

We experienced an overwhelming response to this funding opportunity, a clear statement of demand for this type of assistance. I assure you that full consideration will be afforded each applicant.

Again, thank you for your letter. If you have any questions, please contact me or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at borum.denis@epa.gov or 202-564-4836.

Sincerely,

A handwritten signature in black ink, which appears to read "Joel Beauvais", is written over a faint, larger version of the same signature.

Joel Beauvais
Acting Deputy Assistant Administrator

EVAN H. JENKINS
3RD DISTRICT, WEST VIRGINIA

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

502 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

845 5TH AVENUE
SUITE 152
HUNTINGTON, WV 25701
(304) 522-2201

Congress of the United States
House of Representatives
Washington, DC 20515-4803

November 19, 2015

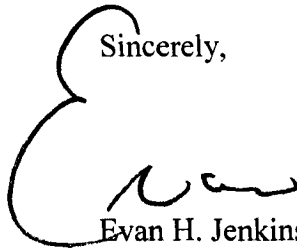
Ms. Barbara Perkins
United State Environmental Protection Agency
1200 Pennsylvania Avenue, Northwest
Washington, DC 20460

Dear Ms. Perkins:

Please accept this letter in support of the Region 1 Planning and Development Council's application for an Urban Waters Small Grant. It is my understanding that funding through this grant would be used to form partnerships between municipalities in West Virginia to provide for GPS data collection on storm systems, discharge locations, and other key infrastructure points. Funding through the grant would also help fund future construction projects and maintenance on existing structures.

It is my hope that the Environmental Protection Agency will give Region 1 Planning and Development's grant application every possible consideration for funding. Please do not hesitate to contact me with any questions you may have.

Sincerely,



Evan H. Jenkins
Member of Congress



December 23, 2015

The Honorable Evan H. Jenkins
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Jenkins:

Thank you for your July 31, 2015, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy, U.S. Department of Agriculture Secretary Thomas J. Vilsack, and U.S. Department of Energy Secretary Ernest Moniz, regarding the role of forest bioenergy in meeting our Nation's energy and climate goals. They have asked us to respond on their behalf.

The President's Climate Action Plan and All-of-the-Above Energy Strategy lay a foundation for a clean energy future and foster expansion of renewable energy, including biomass. At the same time, the President's Climate Action Plan highlights the critical role that America's forests play in addressing carbon pollution in the United States. Our agencies agree that production and use of biomass energy can be an integral part of regimes that promote conservation and responsible forest management. States also recognize the importance of forests, and many have been developing a variety of forest and land use management policies and programs that both address climate change and foster increased biomass utilization as part of their energy future.

Recent EPA regulatory action and scientific work on assessing biogenic carbon dioxide (CO₂) emissions from stationary sources is part of this broad climate strategy. In August 2015, EPA released the final Clean Power Plan (CPP), which describes the ways in which the use of biomass may be a component of state plans. For example, in the CPP, EPA generally acknowledges the benefits of waste-derived biogenic feedstocks and certain forest- and agriculture-derived industrial byproduct feedstocks and expects that these feedstocks would likely be approvable in a state plan. To support states and stakeholders in incorporating bioenergy in their state plans, EPA plans to hold a public workshop in early 2016 for stakeholders to share their successes, experiences, and approaches to deploying biomass in ways that have been, and can be, carbon beneficial. In addition, EPA has also developed a revised *Framework for Assessing Biogenic Carbon Dioxide from Stationary Sources* that can assist states when considering the role of biomass in state plan submittals. The revised report takes into account the latest information from the scientific community and other stakeholders, including findings from EPA's Science Advisory Board (SAB) review of the first draft framework. EPA is continuing to refine its accounting work through a second round of targeted peer review with the SAB in 2015.¹

¹ The revised draft Framework and SAB peer review request memo can be found at: <http://epa.gov/climatechange/ghgemissions/biogenic-emissions.html>. Information regarding the SAB peer review process can be found at: www.epa.gov/sab/.

USDA recognizes the important role forest management and biomass will play in both our energy and climate future. Increasing the demand for wood for energy results in more forest area, more forest investment, and potential greenhouse gas reductions. To increase forest stocks and improve forest health and management, we must develop incentives that keep working forestland forested and support forest restoration, reforestation, and afforestation. This is all the more critical, especially amid development pressures and increasing threats from insects, disease, and wildfire.


Under USDA's Wood to Energy Initiative, USDA has supported over 230 Wood Energy projects through nearly \$1 billion in grants, loans, and loan guarantees since 2009 through a host of programs, including the Renewable Energy for America Program and the Biomass Crop Assistance Program. USDA has established state-wide wood energy teams in 19 states that are helping deliver needed technical and financial assistance to expand those markets further.

DOE recognizes the importance of wood as a renewable energy source. DOE is leading efforts to develop and demonstrate technologies for producing cost-competitive advanced biofuels from non-food biomass resources, including forest and wood resources, algae, and waste streams. These efforts require rigorous scientific study and evaluation to understand the impacts of various biomass feedstocks, especially woody resources, to optimize the benefits of their use.

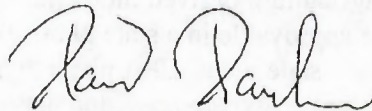
In the context of the President's Climate Action Plan and All-of-the-Above Energy Strategy, DOE, EPA, and USDA will work together to ensure that biomass energy plays a role in America's clean energy future. As stated in your letter, the American people deserve a Federal policy that recognizes the benefits of forest bioenergy. Together, our agencies are working carefully and consistently to quantify the benefits of using wood for energy.

Again, thank you for your letter. If you have further questions, please contact us or your staff may contact Ms. Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806; Ms. Janine Benner, DOE's Deputy Assistant Secretary for House Affairs at (202) 586-5450; or Mr. Todd Batta, USDA's Assistant Secretary for Congressional Relations at (202) 720-6643.


Sincerely,



Janet G. McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection
Agency



Dr. David T. Danielson
Assistant Secretary
Office of Energy Efficiency
and Renewable Energy
U.S. Department of Energy



Dr. Robert Johansson
Chief Economist
U.S. Department of Agriculture

Congress of the United States
Washington, DC 20515

July 31, 2015

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

The Honorable Dr. Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

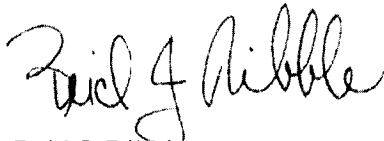
Dear Administrator McCarthy, Secretary Moniz, and Secretary Vilsack:

We write to support biomass energy as a sustainable, responsible, renewable, and economically significant energy source. Federal policies across all departments and agencies must remove any uncertainties and contradictions through a clear, unambiguous message that forest bioenergy is part of the nation's energy future.

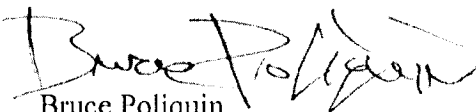
Many states are relying on renewable biomass to meet their energy goals, and we support renewable biomass to create jobs and economic growth while meeting our nation's energy needs. A comprehensive science, technical, and legal administrative record supports a clear and simple policy establishing the benefits of energy from forest biomass. Federal policies that add unnecessary costs and complexity will discourage rather than encourage investment in working forests, harvesting operations, bioenergy, wood products, and paper manufacturing. Unclear or contradictory signals from federal agencies could discourage biomass utilization as an energy solution.

The carbon neutrality of forest biomass has been recognized repeatedly by numerous studies, agencies, institutions, legislation, and rules around the world, and there has been no dispute about the carbon neutrality of biomass derived from residuals of forest products manufacturing and agriculture. Our constituents employed in the biomass supply chain deserve a federal policy that recognizes the clear benefits of forest bioenergy. We urge you to ensure that federal policies are consistent and reflect the carbon neutrality of these types of bioenergy.

Sincerely,



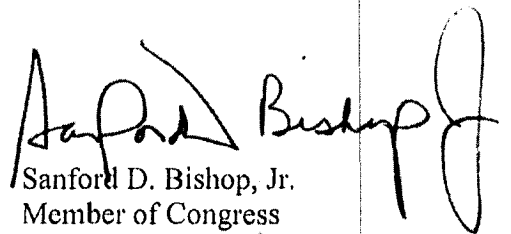
Reid J. Ribble
Member of Congress




Bruce Poliquin
Member of Congress



Gregg Harper
Member of Congress



Sanford D. Bishop, Jr.
Member of Congress



Kurt Schrader
Member of Congress



Gwen Graham
Member of Congress

Corrine Brown

Corrine Brown
Member of Congress

G.K. Butterfield

G.K. Butterfield
Member of Congress

Ken Calvert

Ken Calvert
Member of Congress

Steve Cohen

Steve Cohen
Member of Congress

Tom Cole

Tom Cole
Member of Congress

Joe Courtney

Joe Courtney
Member of Congress

Ander Crenshaw

Ander Crenshaw
Member of Congress

Peter A. DeFazio

Peter A. DeFazio
Member of Congress

John J. Duncan, Jr.

John J. Duncan, Jr.
Member of Congress

Stephen Lee Fincher

Stephen Lee Fincher
Member of Congress

John Fleming

John Fleming
Member of Congress

J. Randy Forbes

J. Randy Forbes
Member of Congress

Virginia Foxx

Virginia Foxx
Member of Congress

Tren Franks

Tren Franks
Member of Congress

John Garamendi

John Garamendi
Member of Congress

Louie Gohmert

Louie Gohmert
Member of Congress

Bob Goodlatte

Bob Goodlatte
Member of Congress

Tom Graves

Tom Graves
Member of Congress

Brett Guthrie

Brett Guthrie
Member of Congress

Walter B. Jones

Walter B. Jones
Member of Congress

Leonard Lance

Leonard Lance
Member of Congress

Rick Larsen

Rick Larsen
Member of Congress

Robert E. Latta

Robert E. Latta
Member of Congress

Tom McClintock

Tom McClintock
Member of Congress

Mick Mulvaney

Mick Mulvaney
Member of Congress

Kristi Noem

Kristi Noem
Member of Congress

Richard M. Nolan

Richard M. Nolan
Member of Congress

Collin C. Peterson

Collin C. Peterson
Member of Congress

Chellie Pingree

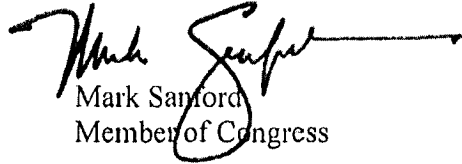
Chellie Pingree
Member of Congress

Hal Rogers

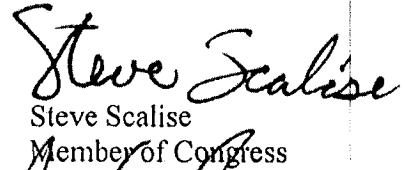
Hal Rogers
Member of Congress



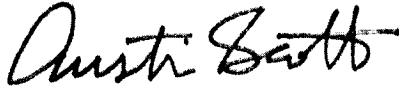
Peter J. Roskam
Member of Congress



Mark Sanford
Member of Congress



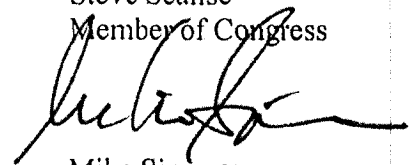
Steve Scalise
Member of Congress



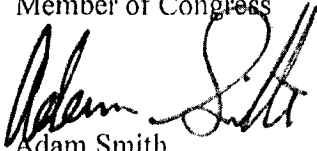
Austin Scott
Member of Congress



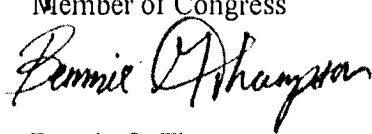
John Shimkus
Member of Congress



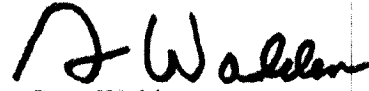
Mike Simpson
Member of Congress



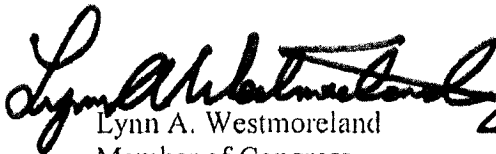
Adam Smith
Member of Congress



Bennie G. Thompson
Member of Congress



Greg Walden
Member of Congress



Lynn A. Westmoreland
Member of Congress




Ed Whitfield
Member of Congress




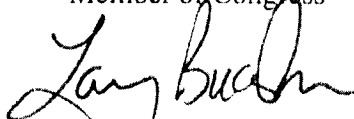
Joe Wilson
Member of Congress





Robert J. Wittman
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Andy Barr
Member of Congress


Mike Bost
Member of Congress

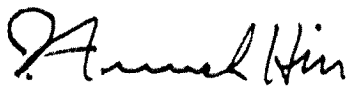

Larry Bucshon
Member of Congress



Doug Collins
Member of Congress

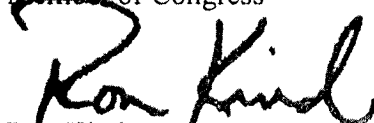

Rodney Davis
Member of Congress



Renee L. Ellmers
Member of Congress



H. Morgan Griffith
Member of Congress


J. French Hill
Member of Congress



John Katko
Member of Congress



Ron Kind
Member of Congress



Ami Bera
Member of Congress

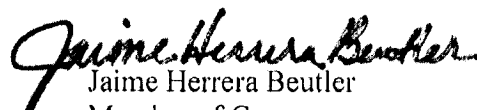

Charles W. Boustany, Jr.
Member of Congress



Cheri Bustos
Member of Congress

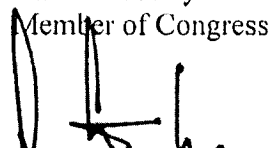

Jim Costa
Member of Congress


Jeff Denham
Member of Congress



Bill Foster
Member of Congress



Jaime Herrera Beutler
Member of Congress



David W. Jolly
Member of Congress



Trent Kelly
Member of Congress


Adam Kinzinger
Member of Congress



Earl Blumenauer
Member of Congress


Mo Brooks
Member of Congress



Chris Collins
Member of Congress

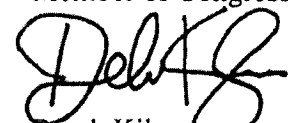

Rick Crawford
Member of Congress


Sean P. Duffy
Member of Congress


Chris Gibson
Member of Congress


Jody B. Hice
Member of Congress


David P. Joyce
Member of Congress


Derek Kilmer
Member of Congress

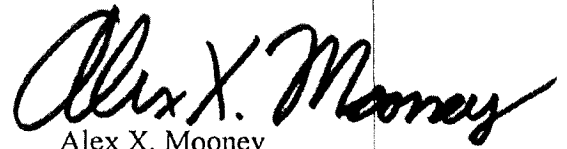

Raul R. Labrador
Member of Congress



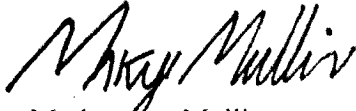
Dave Loebsack
Member of Congress



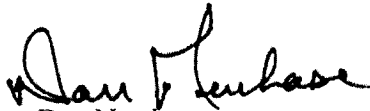
Mark Meadows
Member of Congress



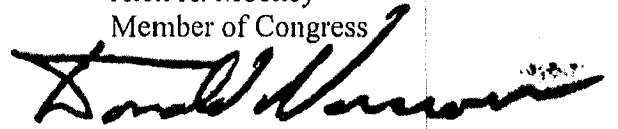
Alex X. Mooney
Member of Congress



Markwayne Mullin
Member of Congress



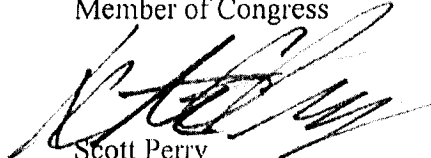
Dan Newhouse
Member of Congress



Donald Norcross
Member of Congress



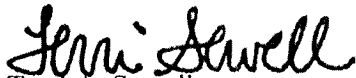
Ed Perlmutter
Member of Congress



Scott Perry
Member of Congress



Dave Reichert
Member of Congress



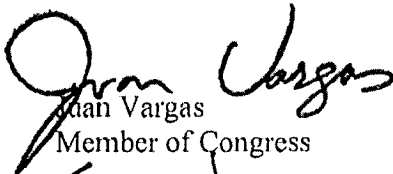
Terri A. Sewell
Member of Congress



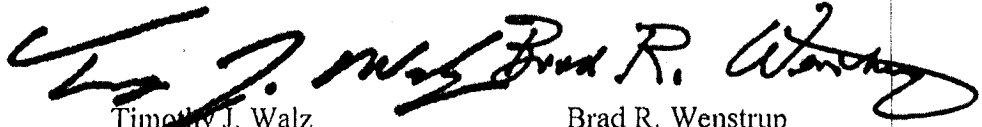
Dave Trott
Member of Congress



David G. Valadao
Member of Congress



Juan Vargas
Member of Congress



Timothy J. Walz
Member of Congress

Brad R. Wenstrup
Member of Congress




Steve Womack
Member of Congress



Rob Woodall
Member of Congress



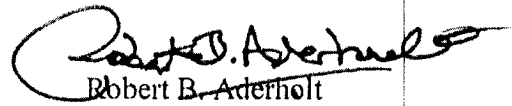
Robert C. "Bobby" Scott
Member of Congress



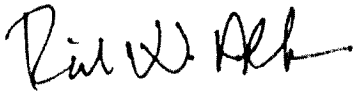
Ralph Abraham, M.D.
Member of Congress



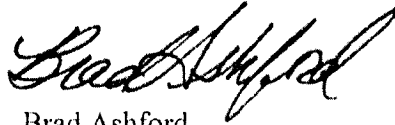
Alma S. Adams
Member of Congress



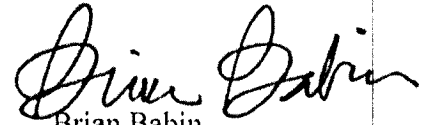
Robert B. Aderholt
Member of Congress



Rick W. Allen
Member of Congress



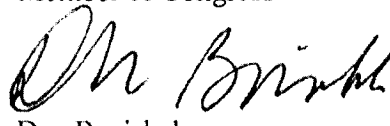
Brad Ashford
Member of Congress



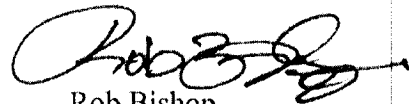
Brian Babin
Member of Congress



Lou Barletta
Member of Congress



Dan Benishek
Member of Congress



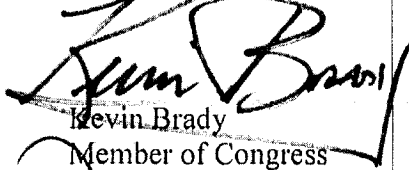
Rob Bishop
Member of Congress



Rod Blum
Member of Congress



Suzanne Bonamici
Member of Congress



Kevin Brady
Member of Congress



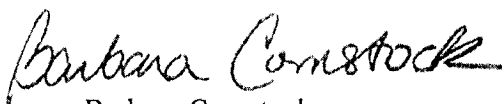
Bradley Byrne
Member of Congress



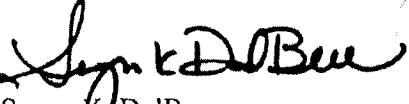
Earl L. "Buddy" Carter
Member of Congress



James E. Clyburn
Member of Congress



Barbara Comstock
Member of Congress



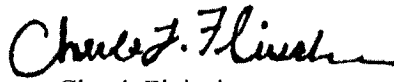
Suzan K. DelBene
Member of Congress



Scott DesJarlais
Member of Congress



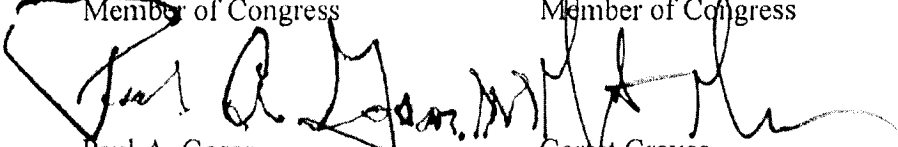
Jeff Duncan
Member of Congress



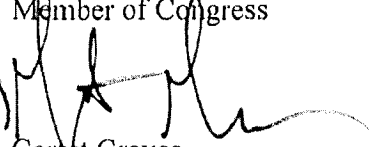
Chuck Fleischmann
Member of Congress



Bob Gibbs
Member of Congress



Paul A. Gosar
Member of Congress



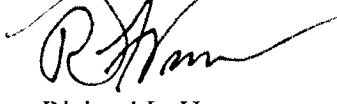
Garret Graves
Member of Congress



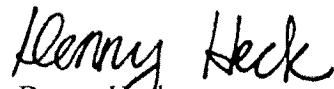
Glenn Grothman
Member of Congress



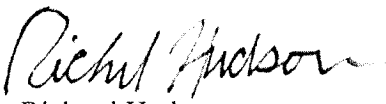
Frank C. Guinta
Member of Congress



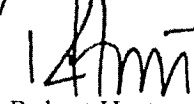
Richard L. Hanna
Member of Congress



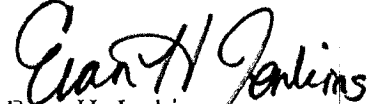
Denny Heck
Member of Congress



Richard Hudson
Member of Congress



Robert Hurt
Member of Congress



Evan H. Jenkins
Member of Congress

Ann Kirkpatrick
Member of Congress

Ann McLane Kuster
Member of Congress

Doug LaMalfa
Member of Congress

Barry Loudermilk
Member of Congress

David B. McKinley
Member of Congress

Cathy McMorris Rodgers
Member of Congress

Steven M. Palazzo
Member of Congress

Gary Palmer
Member of Congress

Mark Pocan
Member of Congress

John Ratcliffe
Member of Congress

Tom Rice
Member of Congress

Cedric L. Richmond
Member of Congress

Martha Roby
Member of Congress

Mike Rogers
Member of Congress

David Rouzer
Member of Congress

David Scott
Member of Congress

Elise M. Stefanik
Member of Congress

Eric Swalwell
Member of Congress

Glenn 'GT' Thompson
Member of Congress

Scott R. Tipton
Member of Congress

Norma J. Torres
Member of Congress

Ann Wagner
Member of Congress

Jackie Walorski
Member of Congress

Bruce Westerman
Member of Congress

Ted S. Yoho, DVM
Member of Congress

David Young
Member of Congress

Ryan K. Zinke
Member of Congress

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MURRAY ENERGY CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	Civil Action No. 5:14-CV-00039
v.)	Judge Bailey
)	
SCOTT PRUITT, Administrator,)	
United States Environmental Protection Agency,)	
acting in his official capacity, ¹)	
)	
Defendant.)	

**EPA'S FILING IN COMPLIANCE WITH THIS COURT'S
JANUARY 11, 2017 ORDER**

INTRODUCTION

On January 11, 2017, this Court ordered the United States Environmental Protection Agency ("EPA") to (1) "[p]repare and submit a 321(a) evaluation of the coal industry and other entities affected by the rules and regulations affecting the coal mining and power generating industries . . . by no later than July 1, 2017," and to (2) "submit evidence . . . that EPA has adopted measures to continuously evaluate the loss and shifts in employment which may result from its administration and enforcement of the Clean Air Act[]" by no later than December 31, 2017. Final Order, ECF No. 314 at 26-27. In addition, this Court ordered EPA "[t]o submit a comprehensive filing detailing the actions the agency is taking to comply with 321(a) and this Court's orders within 60 days." *Id.* at 27 (hereinafter "Compliance Filing"). On February 16, 2017, the parties filed an expedited joint motion to extend the deadlines in the Final Order.

¹ Pursuant to Fed. R. Civ. P. 25(d), Administrator Scott Pruitt "is automatically substituted as a party" because he is the successor to former Administrator Gina McCarthy, who was named in Plaintiffs' Complaint. Catherine McCabe served as Acting Administrator immediately prior to Administrator Pruitt's confirmation.

Expedited Joint Motion to Extend Deadlines in the January 11 Final Order, ECF No. 326. On February 23, 2017, this Court granted the parties' request to extend the deadline for the Compliance Filing until May 13, 2017,² and otherwise denied the expedited joint motion. Order Granting in Part and Denying in Part the Expedited Joint Motion to Extend Deadlines in the January 11 Final Order, ECF No. 327.

EPA has appealed all aspects of the Final Order, and the Fourth Circuit took the case under submission on May 9, 2017. *Murray Energy Corp. v. EPA*, Lead Case No. 16-2432 (4th Cir.). Subject to the reservations and objections presented to the Fourth Circuit, EPA submits this Compliance Filing to comply with the Final Order.

As explained above, this Court required that the Compliance Filing "detail[] the actions the agency is taking to comply with 321(a) and this Court's orders." ECF No. 314 at 27. EPA understands this direction to mean that the Agency must explain its plans to comply with this Court's July and December deadlines. The evaluation due by July 1, 2017, has two major subcomponents—a retrospective evaluation of actual "coal mines and coal-fired power generators that have closed or reduced employment since January 2009," *id.* at 26 "1(a)(iii), and an evaluation of "facilities that are at risk of closure or reductions in employment because of EPA's regulations and enforcement actions" and associated impacts on communities, families, and subpopulations, *id.* at 26-27 "1(a)(i)-(ii) (iv).

In the Final Order, this Court provided additional interpretation of the statute, stating that Section 321(a) "requires EPA to answer the particular question of whether the EPA is contributing to specific worker dislocations and plant and mine closures," and that, "[t]o comply

² May 13, 2017 was a Saturday.

with 321(a), EPA must both track and monitor the effects of the Clean Air Act and its implementing regulations on employment, and evaluate the cause of specific job dislocations. *Id.* at 8-9 (internal citation omitted). This Court concluded that EPA could employ existing methodologies and analytical tools to achieve compliance, describing with favor a voluntary program jointly administered by EPA and the Department of Labor during the 1970s and early 1980s called the Economic Dislocation Early Warning System ("EDEWS"). *Id.* at 9.

The EDEWS³ was an information collection and reporting effort in which EPA regional offices maintained contacts with federal, state, and local environmental enforcement offices, and invited individual firms to contact EPA directly when they closed or planned to close a plant and environmental regulations were alleged to be a significant factor in the decision. EPA headquarters consolidated the information collected by the regional offices and communicated it to the Secretary of Labor in a quarterly report. The quarterly reports presented details on the previous quarter's actual and threatened plant closures, including the name and location of each plant, the industry, the actual or threatened date of dislocation, the jobs lost or threatened and total employment, a description of the environmental regulation or enforcement action at issue, and any unique circumstances involved. EPA did not include in the EDEWS plant closures or employment reductions affecting fewer than 25 employees, but otherwise included all plants that firms alleged would have remained unthreatened had it not been for the imposition of environmental regulations, regardless of the number and significance of other financial factors that may have entered into the closure decision. EPA cautioned, however, that many of the plants included in the EDEWS reports likely would have closed in the near term even in the absence of

³ *Hearings before the Subcomms. of the S. Comm. on Appropriations on H.R. 9375*, 95th Cong. 501-03 (1978) (describing "The Origin Operation of the Economic Dislocation Early Warning System"), <https://babel.hathitrust.org/cgi/pt?id=uc1.b4682130;view=1up;seq=509>.

environmental regulations. EPA also explained that economic impacts were difficult to quantify because many dislocated workers are rehired by the same firm, while some displaced labor shifted into other firms or sectors of the economy. Finally, EPA identified a number of reliability concerns associated with the EDEWS, including the difficulty of obtaining information to substantiate or refute allegations that environmental regulations were a significant factor in a plant closure.

As explained in more detail below, absent relief from the Fourth Circuit, EPA intends to use the EDEWS as guidance in complying with this Court's July deadline. EPA also intends to comply with this Court's December deadline by using the EDEWS as a starting point to develop an ongoing program to conduct facility-level evaluations of closures and employment reductions. EPA maintains its position, however, that "resuming the [EDEWS] . . . would entail enormous costs to EPA and industry with little or no gain in reliable information." United States Response to the October 17, 2016 Memorandum Opinion and Order Requiring Section 321(a) Compliance Plan and Schedule, ECF No. 296 at 10 n.11. Furthermore, EPA continues to have serious concerns about the analytical challenges associated with facility-level evaluations generally. *See id.* at 9-10 (listing challenges). EPA will make best efforts to address those challenges, as time and resources permit, because EPA is committed to ensuring that its work is based on the best available science and technical methods. EPA is also committed to an open, transparent process

that affords sufficient opportunities for public engagement, and that adheres to federal data-quality⁴ and information-collection⁵ requirements and policies.

I. July 1, 2017 Evaluation of Coal Mines and Coal-Fired Power Plants

Under this Court's Final Order, EPA must:

Prepare and submit to the Court a 321(a) evaluation of the coal industry and other entities affected by the rules and regulations affecting the coal mining and power generating industries as expeditiously as practicable and by no later than July 1, 2017, which evaluation shall:

- (i) identify those facilities that are at risk of closure or reductions in employment because of EPA's regulations and enforcement actions impacting coal and/or the power generating industry;
- (ii) evaluate the impacts of the potential loss and shifts in employment which may be attributable to EPA's regulations and enforcement actions impacting coal and/or the power generating industry, including identifying the number of employees potentially affected, the communities that may be impacted, and the reasonably foreseeable impacts on families and industries reliant on coal;
- (iii) identify those coal mines and coal-fired power generators that have closed or reduced employment since January 2009 and, for each, evaluate whether EPA's administration and enforcement of the Clean Air Act contributed to the closure or reduction in employment; and
- (iv) identify those subpopulations at risk of being unduly affected by job loss and shifts and environmental justice impacts.

⁴ See, e.g., Information Quality Act, Pub. L. No. 106-554, 114 Stat. 2763; Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, Final Guidelines (corrected), 67 Fed. Reg. 8452 (Feb. 22, 2002); see also U.S. EPA, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (Oct. 2002), <https://www.epa.gov/sites/production/files/2015-08/documents/epa-info-quality-guidelines.pdf>.

⁵ See, e.g., Paperwork Reduction Act, 44 U.S.C. 3501-21; Office of Info. Regulatory Affairs, Office of Mgmt. Budget, Exec. Office of the President, *Frequently Asked Questions*, https://www.reginfo.gov/public/jsp/Utilities/faq.jsp#icr_info (last visited May 15, 2017) (The Paperwork Reduction Act (PRA), which was signed into law in 1980 and reauthorized in 1995, provides the statutory framework for the Federal government's collection, use, and dissemination of information. The goals of the PRA include (1) minimizing paperwork and reporting burdens on the American public and (2) ensuring the maximum possible utility from the information that is collected.).

ECF No. 314 at 26-27.

To comply with this portion of the Final Order, EPA is: (1) assembling a workgroup and establishing a work plan for completing the prescribed evaluation by the July deadline; (2) developing a methodology for evaluating employment impacts at individual coal mines and coal-fired power plants, notwithstanding data gaps and uncertainties; (3) identifying the universe of mines and plants that will be included in the evaluation; and (4) identifying the factors that may have contributed to the actual and potential closures and employment reductions, as well as associated impacts. This workgroup consists of over 80 EPA staff, including economists and program analysts from EPA's Office of Policy and Office of Air and Radiation, and attorneys in EPA's Office of General Counsel and Office of Enforcement and Compliance Assurance.

In accordance with the Final Order, EPA's coal-industry evaluation will focus on employment impacts at the facility level, which is a more granular approach than EPA generally uses in its regulatory analyses of national, regional, and sector-wide economic impacts. While EPA is using the EDEWS approach as guidance for this evaluation, EPA cannot acquire information related to plant closures and employment reductions through interactions with state and local governments or firms by the July deadline due to the requirements of the Paperwork Reduction Act ("PRA") of 1995. *See infra* at 13. EPA is instead undertaking a significant data-gathering effort by utilizing publicly available⁶ information on facilities in the coal-mining and coal-fired-generation industries, compiling that information, and then conducting a qualitative assessment of the factors that may have contributed to actual or potential closures or reductions in employment.

⁶ At this time, EPA has not identified any proprietary data, such as confidential business information ("CBI"), that has been comprehensively collected and that would be useful for the purpose of conducting facility-level evaluations.

To identify coal mines that have closed or reduced employment since January 2009, EPA is relying on publicly available data from the U.S. Mine Safety and Health Administration (MSHA), an agency within the Department of Labor. For the purpose of enforcing mine-worker safety, MSHA collects employment data from entities that engage not just in coal mining, but in “the work of preparing” coal.⁷ These entities include mines that produce coal, as well as other types of facilities, such as coal-preparation facilities, coal transshipment facilities, and portable operations (e.g., portable augers). They submit quarterly employment data to MSHA using Form 7000-2,⁸ including the average number of workers employed at each entity. Due to the large number of coal mines and related entities in the United States (2,639 steam-coal mines had on-site employment in one or more years from 2009 to 2016)⁹ and the fluctuating nature of employment in this sector (e.g., workers are routinely reallocated across mines), EPA is following a methodological approach similar to that used in the EDEWS of evaluating only those entities that experienced dislocations of 25 jobs or more from January 2009 to December 2016. At this time, EPA has identified 1,099 steam-coal mining entities that meet this criterion. For the remaining steam-coal mining entities that experienced smaller reductions in employment, EPA will list such entities and provide a general overview of employment trends and impacts, but will not conduct individual facility-level evaluations.

⁷ 30 C.F.R. 50.2(b).

⁸ See Mine Safety and Health Admin., U.S. Dep’t of Labor, *Quarterly Mine Employment and Coal Production Report*, <https://www.msha.gov/support-resources/forms-online-filing/2015/04/15/quarterly-mine-employment-and-coal-production> (last visited May 15, 2017).

⁹ Steam coal includes bituminous, subbituminous, and lignite coals, which are burned in coal-fired power plants to produce electricity. Some coal mines produce anthracite coal, which is used for steelmaking and other industrial processes. Due to significant time and resource constraints, EPA will address employment impacts at anthracite coal mines as part of the comprehensive program required by this Court’s December deadline.

To identify coal-fired power plants that have closed or reduced employment since January 2009, EPA is relying on publicly available data from the U.S. Energy Information Administration (EIA), the Federal Energy Regulatory Commission (FERC), and the U.S. Department of Agriculture's Rural Utilities Service (RUS). In contrast to mines, annual employment information is not available for all power plants in the United States, although it is available for many. FERC Form No. 1¹⁰ is a comprehensive financial and operating report submitted annually by major electric utilities that provide rate-based electricity. FERC Form No. 1 solicits total annual employment information for power plants with greater than 25 megawatts of installed capacity. Similarly, power plants that receive insured loans and loan guarantees through the RUS must report their total employment annually on the Financial and Operating Report Electric Power Supply form.¹¹ Additionally, EPA is attempting to identify those power plants with coal-fired units that have closed or converted to another fuel since January 2009 by relying on publicly available data reported to the EIA using Form 860.¹² At this time, EPA has invested significant effort in reviewing these data sources and identifying coal-fired power plants where at least one operable electric generating unit retired or converted some coal-fired capacity to other fuels between January 2009 and December 2016, or that reduced employment over this time period.

¹⁰ See Fed. Energy Regulatory Comm'n, U.S. Dep't of Energy, *FERC Financial Report, FERC Form No. 1: Annual Report of Major Electric Utilities, Licensees, and Others and Supplemental Form 3-Q: Quarterly Financial Report*, www.ferc.gov/docs-filing/forms/form-1/form-1.pdf (last visited May 15, 2017).

¹¹ See Rural Dev., U.S. Dep't of Agric., *Financial and Operating Report Electric Power Supply* (Rev. 2010), https://www.rd.usda.gov/files/OpRpt_PS_2010_Current.pdf.

¹² See U.S. Energy Info. Admin., *Form EIA-860 detailed data* (Oct. 6, 2016), <https://www.eia.gov/electricity/data/eia860/>.

To identify coal-fired power plants that may be at risk of closing or reducing employment in the near future, EPA is using publicly available information regarding retirement plans, which is also available from EIA Form 860. Because comparable data is not available for coal mines,¹³ EPA will make best efforts to link these power plants to the coal mines that have consistently supplied them with coal in recent years by using data collected by the EIA on Form 923.¹⁴ The utility of this approach to identifying at-risk coal mines may be limited, however, because power plants often purchase coal from multiple coal mines or through brokers, in which case the original source mine is unknown or difficult to ascertain, and coal mines often have a portfolio of customers that can vary from year to year. Nevertheless, absent a peer-reviewed methodology for identifying at-risk facilities, EPA believes that this approach, despite its limitations, is the best option for timely complying with this Court's Final Order. EPA is aware that identifying a coal mine as "at risk" could in itself create additional financial risk to the owners, suppliers, and employees of that mine.¹⁵ Consequently, EPA will seek to minimize that risk while complying with the requirements of the Final Order.

To evaluate whether EPA's administration and enforcement of the Clean Air Act may have contributed to any of the actual and potential closures and employment reductions, EPA will rely on official statements made by facility owners (e.g., annual reports, SEC filings, and

¹³ In certain circumstances, coal-mine owners may be required to submit notices under the Worker Adjustment and Retraining Notification ("WARN") Act to MSHA. WARN Act requirements are limited to firms of a certain size, however, and these firms are usually only required to issue notices 60 days in advance, which limits the utility of the notices in identifying potential closures.

¹⁴ See *U.S. Energy Info. Admin., Form EIA-923 detailed data* (Apr. 26, 2017), <https://www.eia.gov/electricity/data/eia923/>.

¹⁵ For example, an "at risk" designation could affect a facility's credit rating, making it more difficult for the facility to obtain loans from lenders. Similarly, an "at risk" designation could impede a facility's ability to attract skilled workers, who may be more inclined to seek employment at a competitor not designated as "at risk."

press releases) and information gathered through news-collection services (e.g., Newsbank) and other sources (e.g., WARN Act notices). EPA emphasizes that these statements cannot be fully corroborated through independent investigation or financial analysis in the time provided by the Final Order. For each facility, EPA is also consulting its own publicly available enforcement databases (e.g., EPA's ECHO database)¹⁶ and, where appropriate, databases that contain information related to the enforcement of health and safety regulations (e.g., databases maintained by MSHA for coal mines) and state and local regulations. Based on work done to date, EPA estimates that each draft coal-mine and power-plant evaluation will take between one and five hours to complete, depending on the amount of information available.

For the at-risk facilities, EPA is gathering information on current economic, health, and environmental conditions in the areas in which the facilities are located in order to evaluate potential impacts on "communities," "families and industries reliant on coal," and "those subpopulations at risk of being unduly affected by job loss and shifts from environmental justice impacts." ECF No. 314 at 26-27. To do this, EPA is relying on publicly available data from the U.S. Census Bureau, the U.S. Bureau of Labor Statistics ("BLS"), the Centers for Disease Control and Prevention, EPA's EJSCREEN tool,¹⁷ and other relevant sources. Employment-

¹⁶ ECHO stands for "Enforcement and Compliance History Online." See U.S. EPA, *Learn More About ECHO*, <https://echo.epa.gov/resources/general-info/learn-more-about-echo> (last updated Feb. 8, 2017). The database provides integrated compliance and enforcement information for about 800,000 regulated facilities nationwide. *Id.*

¹⁷ EJSCREEN is EPA's "Environmental Justice Screening and Mapping Tool," which is used for displaying and combining nationally consistent, publicly available environmental and demographic data at various geographic scales. See U.S. EPA, *EJSCREEN: Environmental Justice Screening and Mapping Tool*, <https://www.epa.gov/ejscreen> (last updated Dec. 19, 2016).

related indicators are generally available by Labor Market Area (LMA),¹⁸ whereas environmental and health indicators are typically available at the county or state level.

In regards to the format of the July submission, EPA expects that each facility-specific evaluation will present facility-related information, a narrative summarizing the information that EPA found regarding job losses and shifts and the factors that may have contributed to the actual or potential closure or reduction in employment, and EPA's best assessment, in light of available data and methodologies, of whether EPA's administration and enforcement of the Clean Air Act is among those factors. For at-risk facilities, the evaluations will also include the community-impacts information discussed above. Based on work done to date, EPA estimates that each draft community-impacts evaluation will take between two and five hours to complete, depending on the amount of information available.

Finally, EPA will include in the submission to this Court sector-level overviews of the coal-mining and electricity-generating industries that discuss recent regulatory requirements, labor trends, and major factors affecting the cost of extracting coal and the electricity sector's demand for coal. Given the numerous analytical limitations and challenges associated with a facility-level approach, EPA believes that concurrent sector-level overviews are important to provide context for the broader economic and regulatory forces that affect employment in these industries. EPA is relying on external market assessments, publicly available market and survey data, and recent scientific research to complete the overviews.

¹⁸ LMAs are U.S. Office of Management and Budget (OMB)-defined metropolitan and micropolitan areas, as well as BLS-defined small labor market areas. LMAs represent geographic areas where individuals can live and work within a reasonable distance. They can include multiple counties and can cross state lines. They are non-overlapping and geographically exhaustive for the entire United States. Many LMAs are county equivalents.

II. Measures to Continuously Evaluate Losses and Shifts in Employment

Under this Court's Final Order, EPA also must:

[A]s expeditiously as practicable, but by no later than December 31, 2017, submit evidence to the Court demonstrating that EPA has adopted measures to continuously evaluate the loss and shifts in employment which may result from its administration and enforcement of the Clean Air Act, including such rulemakings, guidance documents, and internal policies as necessary to demonstrate that EPA has begun to comply with 321(a) and will continue to do so going forward.

ECF No. 314 at 27.

To comply with this portion of the Final Order, EPA is assembling a workgroup and establishing a work plan to adopt measures by the December deadline. This workgroup currently consists of over 30 EPA staff, including economists and program analysts from EPA's Office of Policy and Office of Air and Radiation, attorneys in EPA's Office of General Counsel and Office of Enforcement and Compliance Assurance, and assistance from other EPA headquarters offices as needed.

The first step in EPA's work plan is to develop a system for collecting facility-level information. As explained above, the EDEWS program relied heavily on assistance from state and local authorities, as well as direct communication with firms, to identify facilities potentially threatened by environmental regulations. Each EPA regional office had a staff member responsible for maintaining contacts with federal, state, and local environmental enforcement offices, as well as local departments of commerce; reading the local press; and serving as the regional point-of-contact for individual firms that contacted EPA regarding closures or plans to close. For each facility, the regional staff member collected the facility's name, location, and industry; the date (if known) of the closure or reduction in employment; the environmental regulation or enforcement action at issue; evidence in support of the firm's claims (e.g., abatement cost information); and any unique circumstances involved.

For EPA to implement a similar information-collection system today, either by directly soliciting information from firms or by indirectly obtaining information with the assistance of state and local entities, EPA must comply with the PRA.¹⁹ Generally, to comply with the PRA, EPA must seek public comment on proposed information collections and submit proposed information collections to OMB for review and approval. Any information collection request (ICR) submitted to OMB for review and approval must include a description of the collection and its intended use, as well as an estimate of the time and cost burdens the ICR will place on the public. 44 U.S.C. 3506(c)(1)(a); 5 C.F.R. 1320.8(b) (c). The ICR may also include an information collection instrument (e.g., a form, survey, script, etc.) and supporting documentation that addresses matters like reporting frequency, the format of the electronic collection system, access issues, and CBI concerns. The ICR process requires two Federal Register notices. The first notice announces EPA's plan to submit an ICR to OMB and solicits comments for a period of 60 days. 44 U.S.C. 3506(c)(2)(a); 5 C.F.R. 1320.8(d). The second notice announces that the ICR has been submitted to OMB and solicits comment for 30 days. 44 U.S.C. 3507(a)(1)(D) (b); 5 C.F.R. 1320.10(a). OMB has 60 days from either the date on which the ICR is submitted for review or the date on which the second notice is published, whichever is later, to approve, disapprove, or require changes to the ICR. 44 U.S.C.

3507(c)(2); 5 C.F.R. 1320.10(b). The total ICR process takes approximately six to nine months from beginning to end.²⁰

¹⁹ Congress enacted the PRA in 1980, nine years after EPA and the Department of Labor started EDEWS, and substantially revised it in 1995.

²⁰ See Office of Info. Regulatory Affairs, Office of Mgmt. Budget, Exec. Office of the President, *Questions and Answers When Designing Surveys for Information Collections* 3 (Jan. 2006), https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/pmc_survey_guidance_2006.pdf

The second step in EPA's work plan is to develop a process for compiling and evaluating the information once it has been collected. In broad terms, this process will likely be similar to the one that EPA is using to conduct facility-level evaluations of coal mines and coal-fired power plants by the July deadline, except that the process will be ongoing and subject to improvements and adjustments over time. While EPA will continue to evaluate actual and potential closures and reductions in employment for the coal industry, EPA will also evaluate additional sectors in the economy that may be affected by Clean Air Act regulations and enforcement actions.²¹ EPA intends to compile the facility-level information necessary to conduct evaluations into a database and review the information for quality-control purposes. Finally, to the extent practicable, EPA will seek to address the serious analytical challenges and limitations associated with the EDEWS methodology by using a transparent process that effectively engages the public and outside experts.

The third step in EPA's work plan is to determine whether and how the Agency will disseminate the evaluations to the public. While Section 321(a) does not require EPA to disclose its evaluations to the public, EPA is nevertheless considering the feasibility and benefits of various options for public dissemination. As described above, EPA used the EDEWS to generate quarterly reports that were submitted to the Department of Labor and the Small Business Administration to aid those agencies in providing unemployment assistance and loans for abatement equipment, respectively. EPA also distributed copies of the quarterly reports to about

(A six month period, from the time the agency completes the ICR to OMB approval, is fairly common for planning purposes but varies considerably across agencies depending on internal review procedures.)

²¹ EPA notes that, while there is a relatively large amount of economic data regarding the coal-mining and electricity-generating sectors that is routinely generated and submitted to various federal, state, and local agencies, comparable data is not readily available for many other sectors subject to Clean Air Act regulation.

100 people outside the Agency, ranging from professors at universities, to companies on a mailing list, to other Federal agencies.²² The Council on Environmental Quality ("CEQ") also included EDEWS information in several of its annual reports during the 1970s.²³ At this time, EPA has not determined whether any of these historical examples would be an appropriate way to disseminate evaluations today.

CONCLUSION

While reserving all rights and without prejudice to the EPA's appeal of this Court's Final Order, the EPA responds to the Final Order and submits, as directed, this Compliance Filing.

DATED: May 15, 2017

Respectfully Submitted,

JEFFREY H. WOOD
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U.S. Department of Justice
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²² See Nat'l Comm'n on Supplies and Shortages, *Information Systems Studies* 401 (Dec. 1976), <https://babel.hathitrust.org/cgi/pt?id=uc1.31210024827345;view=1up;seq=415>.

²³ See Council on Env'tl. Quality, Exec. Office of the President, *Annual Environmental Quality Reports*, https://ceq.doe.gov/ceq-reports/annual_environmental_quality_reports.html (last visited May 15, 2017). In 1995, Congress eliminated the requirement that CEQ create and publish the annual reports to reduce paperwork in government. *See id.*

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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MURRAY ENERGY CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 5:14-CV-00039
)	Judge Bailey
SCOTT PRUITT, Administrator,)	
United States Environmental Protection Agency,)	
acting in his official capacity,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I, Erin Carter Tison, hereby certify that on this 15th day of May, 2017, the foregoing EPA's Filing in Compliance With This Court's January 11, 2017 Order was filed using the CM/ECF system, which will cause a copy to be served upon counsel of record.

/s/ Erin Carter Tison
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U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUN 01 2017

The Honorable Evan Jenkins
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Jenkins:

This responds to your letter dated April 7, 2017, to the Attorney General and the Administrator of the Environmental Protection Agency (EPA) regarding *Murray Energy Corp. v. McCarthy* (4th Cir.). Because this is a matter in litigation, I have been asked to respond on behalf of both the Department of Justice and EPA. We are sending similar responses to the other signatories of your letter.

This case involves a challenge by plaintiff coal companies who alleged that EPA failed to “conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the [Clean Air Act (CAA)].” 42 USC 7621(a). The United States District Court for the Northern District of West Virginia granted summary judgment to the plaintiffs, holding, among other things, that section 321(a) of the CAA imposes a non-discretionary duty on EPA under the CAA’s citizen suit provision, CAA section 304, 42 USC 7604. The district court also issued an injunction directing EPA to perform, among other things, a retrospective analysis of the Clean Air Act’s effects on coal- and electric power-industry employment since 2009, and to develop specific procedures for conducting future evaluations. *Murray Energy Corp. v. McCarthy*, No. 5:14-CV-39, 2016 WL 6083946 (N.D.W. Va. Oct. 17, 2016) and 2017 WL 150511 (N.D.W. Va. Jan. 11, 2017).

The United States has taken the position that this suit does not meet the requirements that CAA section 304 imposes on all litigants. The United States appealed on that and other issues, and on May 9, the Fourth Circuit Court of Appeals heard oral argument in this case. In the meantime, EPA is complying with the district court’s order and on May 15 filed the attached statement detailing the actions EPA is taking to do so.

The Honorable Evan Jenkins
Page Two

As you are no doubt aware, longstanding Department of Justice policy prohibits discussion of matters in litigation other than public information. We can assure you, however, that we appreciate and value your views.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Samuel R. Ramer
Acting Assistant Attorney General

Enclosure

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MURRAY ENERGY CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	Civil Action No. 5:14-CV-00039
v.)	Judge Bailey
)	
SCOTT PRUITT, Administrator,)	
United States Environmental Protection Agency,)	
acting in his official capacity, ¹)	
)	
Defendant.)	

**EPA’S FILING IN COMPLIANCE WITH THIS COURT’S
JANUARY 11, 2017 ORDER**

INTRODUCTION

On January 11, 2017, this Court ordered the United States Environmental Protection Agency (“EPA”) to (1) “[p]repare and submit a § 321(a) evaluation of the coal industry and other entities affected by the rules and regulations affecting the coal mining and power generating industries . . . by no later than July 1, 2017,” and to (2) “submit evidence . . . that EPA has adopted measures to continuously evaluate the loss and shifts in employment which may result from its administration and enforcement of the Clean Air Act[.]” by no later than December 31, 2017. Final Order, ECF No. 314 at 26–27. In addition, this Court ordered EPA “[t]o submit a comprehensive filing detailing the actions the agency is taking to comply with § 321(a) and this Court’s orders within 60 days.” *Id.* at 27 (hereinafter “Compliance Filing”). On February 16, 2017, the parties filed an expedited joint motion to extend the deadlines in the Final Order.

¹ Pursuant to Fed. R. Civ. P. 25(d), Administrator Scott Pruitt “is automatically substituted as a party” because he is the successor to former Administrator Gina McCarthy, who was named in Plaintiffs’ Complaint. Catherine McCabe served as Acting Administrator immediately prior to Administrator Pruitt’s confirmation.

Expedited Joint Motion to Extend Deadlines in the January 11 Final Order, ECF No. 326. On February 23, 2017, this Court granted the parties' request to extend the deadline for the Compliance Filing until May 13, 2017,² and otherwise denied the expedited joint motion. Order Granting in Part and Denying in Part the Expedited Joint Motion to Extend Deadlines in the January 11 Final Order, ECF No. 327.

EPA has appealed all aspects of the Final Order, and the Fourth Circuit took the case under submission on May 9, 2017. *Murray Energy Corp. v. EPA*, Lead Case No. 16-2432 (4th Cir.). Subject to the reservations and objections presented to the Fourth Circuit, EPA submits this Compliance Filing to comply with the Final Order.

As explained above, this Court required that the Compliance Filing "detail[] the actions the agency is taking to comply with § 321(a) and this Court's orders." ECF No. 314 at 27. EPA understands this direction to mean that the Agency must explain its plans to comply with this Court's July and December deadlines. The evaluation due by July 1, 2017, has two major subcomponents—a retrospective evaluation of actual "coal mines and coal-fired power generators that have closed or reduced employment since January 2009," *id.* at 26 ¶ 1(a)(iii), and an evaluation of "facilities that are at risk of closure or reductions in employment because of EPA's regulations and enforcement actions" and associated impacts on communities, families, and subpopulations, *id.* at 26–27 ¶¶ 1(a)(i)–(ii) & (iv).

In the Final Order, this Court provided additional interpretation of the statute, stating that Section 321(a) "requires EPA to answer the particular question of whether the EPA is contributing to specific worker dislocations and plant and mine closures," and that, "[t]o comply

² May 13, 2017 was a Saturday.

with § 321(a), EPA must both ‘track and monitor the effects of the Clean Air Act and its implementing regulations on employment,’ and evaluate ‘the cause of specific job dislocations.’” *Id.* at 8–9 (internal citation omitted). This Court concluded that EPA could employ existing methodologies and analytical tools to achieve compliance, describing with favor a voluntary program jointly administered by EPA and the Department of Labor during the 1970s and early 1980s called the Economic Dislocation Early Warning System (“EDEWS”). *Id.* at 9.

The EDEWS³ was an information collection and reporting effort in which EPA regional offices maintained contacts with federal, state, and local environmental enforcement offices, and invited individual firms to contact EPA directly when they closed or planned to close a plant and environmental regulations were alleged to be a significant factor in the decision. EPA headquarters consolidated the information collected by the regional offices and communicated it to the Secretary of Labor in a quarterly report. The quarterly reports presented details on the previous quarter’s actual and threatened plant closures, including the name and location of each plant, the industry, the actual or threatened date of dislocation, the jobs lost or threatened and total employment, a description of the environmental regulation or enforcement action at issue, and any unique circumstances involved. EPA did not include in the EDEWS plant closures or employment reductions affecting fewer than 25 employees, but otherwise included all plants that firms alleged would have remained unthreatened had it not been for the imposition of environmental regulations, regardless of the number and significance of other financial factors that may have entered into the closure decision. EPA cautioned, however, that many of the plants included in the EDEWS reports likely would have closed in the near term even in the absence of

³ *Hearings before the Subcomms. of the S. Comm. on Appropriations on H.R. 9375*, 95th Cong. 501–03 (1978) (describing “The Origin & Operation of the Economic Dislocation Early Warning System”), <https://babel.hathitrust.org/cgi/pt?id=uc1.b4682130;view=1up;seq=509>.

environmental regulations. EPA also explained that economic impacts were difficult to quantify because many dislocated workers are rehired by the same firm, while some displaced labor shifted into other firms or sectors of the economy. Finally, EPA identified a number of reliability concerns associated with the EDEWS, including the difficulty of obtaining information to substantiate or refute allegations that environmental regulations were a significant factor in a plant closure.

As explained in more detail below, absent relief from the Fourth Circuit, EPA intends to use the EDEWS as guidance in complying with this Court's July deadline. EPA also intends to comply with this Court's December deadline by using the EDEWS as a starting point to develop an ongoing program to conduct facility-level evaluations of closures and employment reductions. EPA maintains its position, however, that "resuming the [EDEWS] . . . would entail enormous costs to EPA and industry with little or no gain in reliable information." United States' Response to the October 17, 2016 Memorandum Opinion and Order Requiring Section 321(a) Compliance Plan and Schedule, ECF No. 296 at 10 n.11. Furthermore, EPA continues to have serious concerns about the analytical challenges associated with facility-level evaluations generally. *See id.* at 9–10 (listing challenges). EPA will make best efforts to address those challenges, as time and resources permit, because EPA is committed to ensuring that its work is based on the best available science and technical methods. EPA is also committed to an open, transparent process

that affords sufficient opportunities for public engagement, and that adheres to federal data-quality⁴ and information-collection⁵ requirements and policies.

I. July 1, 2017 Evaluation of Coal Mines and Coal-Fired Power Plants

Under this Court's Final Order, EPA must:

Prepare and submit to the Court a § 321(a) evaluation of the coal industry and other entities affected by the rules and regulations affecting the coal mining and power generating industries as expeditiously as practicable and by no later than July 1, 2017, which evaluation shall:

- (i) identify those facilities that are at risk of closure or reductions in employment because of EPA's regulations and enforcement actions impacting coal and/or the power generating industry;
- (ii) evaluate the impacts of the potential loss and shifts in employment which may be attributable to EPA's regulations and enforcement actions impacting coal and/or the power generating industry, including identifying the number of employees potentially affected, the communities that may be impacted, and the reasonably foreseeable impacts on families and industries reliant on coal;
- (iii) identify those coal mines and coal-fired power generators that have closed or reduced employment since January 2009 and, for each, evaluate whether EPA's administration and enforcement of the Clean Air Act contributed to the closure or reduction in employment; and
- (iv) identify those subpopulations at risk of being unduly affected by job loss and shifts and environmental justice impacts.

⁴ See, e.g., Information Quality Act, Pub. L. No. 106-554, 114 Stat. 2763; Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, Final Guidelines (corrected), 67 Fed. Reg. 8452 (Feb. 22, 2002); see also U.S. EPA, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (Oct. 2002), <https://www.epa.gov/sites/production/files/2015-08/documents/epa-info-quality-guidelines.pdf>.

⁵ See, e.g., Paperwork Reduction Act, 44 U.S.C. §§ 3501–21; Office of Info. & Regulatory Affairs, Office of Mgmt. & Budget, Exec. Office of the President, *Frequently Asked Questions*, https://www.reginfo.gov/public/jsp/Utilities/faq.jsp#icr_info (last visited May 15, 2017) (“The Paperwork Reduction Act (PRA), which was signed into law in 1980 and reauthorized in 1995, provides the statutory framework for the Federal government’s collection, use, and dissemination of information. The goals of the PRA include (1) minimizing paperwork and reporting burdens on the American public and (2) ensuring the maximum possible utility from the information that is collected.”).

ECF No. 314 at 26–27.

To comply with this portion of the Final Order, EPA is: (1) assembling a workgroup and establishing a work plan for completing the prescribed evaluation by the July deadline; (2) developing a methodology for evaluating employment impacts at individual coal mines and coal-fired power plants, notwithstanding data gaps and uncertainties; (3) identifying the universe of mines and plants that will be included in the evaluation; and (4) identifying the factors that may have contributed to the actual and potential closures and employment reductions, as well as associated impacts. This workgroup consists of over 80 EPA staff, including economists and program analysts from EPA’s Office of Policy and Office of Air and Radiation, and attorneys in EPA’s Office of General Counsel and Office of Enforcement and Compliance Assurance.

In accordance with the Final Order, EPA’s coal-industry evaluation will focus on employment impacts at the facility level, which is a more granular approach than EPA generally uses in its regulatory analyses of national, regional, and sector-wide economic impacts. While EPA is using the EDEWS approach as guidance for this evaluation, EPA cannot acquire information related to plant closures and employment reductions through interactions with state and local governments or firms by the July deadline due to the requirements of the Paperwork Reduction Act (“PRA”) of 1995. *See infra* at 13. EPA is instead undertaking a significant data-gathering effort by utilizing publicly available⁶ information on facilities in the coal-mining and coal-fired-generation industries, compiling that information, and then conducting a qualitative assessment of the factors that may have contributed to actual or potential closures or reductions in employment.

⁶ At this time, EPA has not identified any proprietary data, such as confidential business information (“CBI”), that has been comprehensively collected and that would be useful for the purpose of conducting facility-level evaluations.

To identify coal mines that have closed or reduced employment since January 2009, EPA is relying on publicly available data from the U.S. Mine Safety and Health Administration (“MSHA”), an agency within the Department of Labor. For the purpose of enforcing mine-worker safety, MSHA collects employment data from entities that engage not just in coal mining, but in “the work of preparing” coal.⁷ These entities include mines that produce coal, as well as other types of facilities, such as coal-preparation facilities, coal transshipment facilities, and portable operations (e.g., portable augers). They submit quarterly employment data to MSHA using Form 7000-2,⁸ including the average number of workers employed at each entity. Due to the large number of coal mines and related entities in the United States (2,639 steam-coal mines had on-site employment in one or more years from 2009 to 2016)⁹ and the fluctuating nature of employment in this sector (e.g., workers are routinely reallocated across mines), EPA is following a methodological approach similar to that used in the EDEWS of evaluating only those entities that experienced dislocations of 25 jobs or more from January 2009 to December 2016. At this time, EPA has identified 1,099 steam-coal mining entities that meet this criterion. For the remaining steam-coal mining entities that experienced smaller reductions in employment, EPA will list such entities and provide a general overview of employment trends and impacts, but will not conduct individual facility-level evaluations.

⁷ 30 C.F.R. § 50.2(b).

⁸ See Mine Safety and Health Admin., U.S. Dep’t of Labor, *Quarterly Mine Employment and Coal Production Report*, <https://www.msha.gov/support-resources/forms-online-filing/2015/04/15/quarterly-mine-employment-and-coal-production> (last visited May 15, 2017).

⁹ Steam coal includes bituminous, subbituminous, and lignite coals, which are burned in coal-fired power plants to produce electricity. Some coal mines produce anthracite coal, which is used for steelmaking and other industrial processes. Due to significant time and resource constraints, EPA will address employment impacts at anthracite coal mines as part of the comprehensive program required by this Court’s December deadline.

To identify coal-fired power plants that have closed or reduced employment since January 2009, EPA is relying on publicly available data from the U.S. Energy Information Administration (“EIA”), the Federal Energy Regulatory Commission (“FERC”), and the U.S. Department of Agriculture’s Rural Utilities Service (“RUS”). In contrast to mines, annual employment information is not available for all power plants in the United States, although it is available for many. FERC Form No. 1¹⁰ is a comprehensive financial and operating report submitted annually by major electric utilities that provide rate-based electricity. FERC Form No. 1 solicits total annual employment information for power plants with greater than 25 megawatts of installed capacity. Similarly, power plants that receive insured loans and loan guarantees through the RUS must report their total employment annually on the Financial and Operating Report Electric Power Supply form.¹¹ Additionally, EPA is attempting to identify those power plants with coal-fired units that have closed or converted to another fuel since January 2009 by relying on publicly available data reported to the EIA using Form 860.¹² At this time, EPA has invested significant effort in reviewing these data sources and identifying coal-fired power plants where at least one operable electric generating unit retired or converted some coal-fired capacity to other fuels between January 2009 and December 2016, or that reduced employment over this time period.

¹⁰ See Fed. Energy Regulatory Comm’n, U.S. Dep’t of Energy, *FERC Financial Report, FERC Form No. 1: Annual Report of Major Electric Utilities, Licensees, and Others and Supplemental Form 3-Q: Quarterly Financial Report*, www.ferc.gov/docs-filing/forms/form-1/form-1.pdf (last visited May 15, 2017).

¹¹ See Rural Dev., U.S. Dep’t of Agric., *Financial and Operating Report Electric Power Supply* (Rev. 2010), https://www.rd.usda.gov/files/OpRpt_PS_2010_Current.pdf.

¹² See U.S. Energy Info. Admin., *Form EIA-860 detailed data* (Oct. 6, 2016), <https://www.eia.gov/electricity/data/eia860/>.

To identify coal-fired power plants that may be at risk of closing or reducing employment in the near future, EPA is using publicly available information regarding retirement plans, which is also available from EIA Form 860. Because comparable data is not available for coal mines,¹³ EPA will make best efforts to link these power plants to the coal mines that have consistently supplied them with coal in recent years by using data collected by the EIA on Form 923.¹⁴ The utility of this approach to identifying at-risk coal mines may be limited, however, because power plants often purchase coal from multiple coal mines or through brokers, in which case the original source mine is unknown or difficult to ascertain, and coal mines often have a portfolio of customers that can vary from year to year. Nevertheless, absent a peer-reviewed methodology for identifying at-risk facilities, EPA believes that this approach, despite its limitations, is the best option for timely complying with this Court's Final Order. EPA is aware that identifying a coal mine as "at risk" could in itself create additional financial risk to the owners, suppliers, and employees of that mine.¹⁵ Consequently, EPA will seek to minimize that risk while complying with the requirements of the Final Order.

To evaluate whether EPA's administration and enforcement of the Clean Air Act may have contributed to any of the actual and potential closures and employment reductions, EPA will rely on official statements made by facility owners (e.g., annual reports, SEC filings, and

¹³ In certain circumstances, coal-mine owners may be required to submit notices under the Worker Adjustment and Retraining Notification ("WARN") Act to MSHA. WARN Act requirements are limited to firms of a certain size, however, and these firms are usually only required to issue notices 60 days in advance, which limits the utility of the notices in identifying potential closures.

¹⁴ See *U.S. Energy Info. Admin., Form EIA-923 detailed data* (Apr. 26, 2017), <https://www.eia.gov/electricity/data/eia923/>.

¹⁵ For example, an "at risk" designation could affect a facility's credit rating, making it more difficult for the facility to obtain loans from lenders. Similarly, an "at risk" designation could impede a facility's ability to attract skilled workers, who may be more inclined to seek employment at a competitor not designated as "at risk."

press releases) and information gathered through news-collection services (e.g., Newsbank) and other sources (e.g., WARN Act notices). EPA emphasizes that these statements cannot be fully corroborated through independent investigation or financial analysis in the time provided by the Final Order. For each facility, EPA is also consulting its own publicly available enforcement databases (e.g., EPA's ECHO database)¹⁶ and, where appropriate, databases that contain information related to the enforcement of health and safety regulations (e.g., databases maintained by MSHA for coal mines) and state and local regulations. Based on work done to date, EPA estimates that each draft coal-mine and power-plant evaluation will take between one and five hours to complete, depending on the amount of information available.

For the at-risk facilities, EPA is gathering information on current economic, health, and environmental conditions in the areas in which the facilities are located in order to evaluate potential impacts on "communities," "families and industries reliant on coal," and "those subpopulations at risk of being unduly affected by job loss and shifts from environmental justice impacts." ECF No. 314 at 26–27. To do this, EPA is relying on publicly available data from the U.S. Census Bureau, the U.S. Bureau of Labor Statistics ("BLS"), the Centers for Disease Control and Prevention, EPA's EJSCREEN tool,¹⁷ and other relevant sources. Employment-

¹⁶ ECHO stands for "Enforcement and Compliance History Online." See U.S. EPA, *Learn More About ECHO*, <https://echo.epa.gov/resources/general-info/learn-more-about-echo> (last updated Feb. 8, 2017). The database provides integrated compliance and enforcement information for about 800,000 regulated facilities nationwide. *Id.*

¹⁷ EJSCREEN is EPA's "Environmental Justice Screening and Mapping Tool," which is used for displaying and combining nationally consistent, publicly available environmental and demographic data at various geographic scales. See U.S. EPA, *EJSCREEN: Environmental Justice Screening and Mapping Tool*, <https://www.epa.gov/ejscreen> (last updated Dec. 19, 2016).

related indicators are generally available by Labor Market Area (“LMA”),¹⁸ whereas environmental and health indicators are typically available at the county or state level.

In regards to the format of the July submission, EPA expects that each facility-specific evaluation will present facility-related information, a narrative summarizing the information that EPA found regarding job losses and shifts and the factors that may have contributed to the actual or potential closure or reduction in employment, and EPA’s best assessment, in light of available data and methodologies, of whether EPA’s administration and enforcement of the Clean Air Act is among those factors. For at-risk facilities, the evaluations will also include the community-impacts information discussed above. Based on work done to date, EPA estimates that each draft community-impacts evaluation will take between two and five hours to complete, depending on the amount of information available.

Finally, EPA will include in the submission to this Court sector-level overviews of the coal-mining and electricity-generating industries that discuss recent regulatory requirements, labor trends, and major factors affecting the cost of extracting coal and the electricity sector’s demand for coal. Given the numerous analytical limitations and challenges associated with a facility-level approach, EPA believes that concurrent sector-level overviews are important to provide context for the broader economic and regulatory forces that affect employment in these industries. EPA is relying on external market assessments, publicly available market and survey data, and recent scientific research to complete the overviews.

¹⁸ LMAs are U.S. Office of Management and Budget (“OMB”)-defined metropolitan and micropolitan areas, as well as BLS-defined small labor market areas. LMAs represent geographic areas where individuals can live and work within a reasonable distance. They can include multiple counties and can cross state lines. They are non-overlapping and geographically exhaustive for the entire United States. Many LMAs are county equivalents.

II. Measures to Continuously Evaluate Losses and Shifts in Employment

Under this Court's Final Order, EPA also must:

[A]s expeditiously as practicable, but by no later than December 31, 2017, submit evidence to the Court demonstrating that EPA has adopted measures to continuously evaluate the loss and shifts in employment which may result from its administration and enforcement of the Clean Air Act, including such rulemakings, guidance documents, and internal policies as necessary to demonstrate that EPA has begun to comply with § 321(a) and will continue to do so going forward.

ECF No. 314 at 27.

To comply with this portion of the Final Order, EPA is assembling a workgroup and establishing a work plan to adopt measures by the December deadline. This workgroup currently consists of over 30 EPA staff, including economists and program analysts from EPA's Office of Policy and Office of Air and Radiation, attorneys in EPA's Office of General Counsel and Office of Enforcement and Compliance Assurance, and assistance from other EPA headquarters offices as needed.

The first step in EPA's work plan is to develop a system for collecting facility-level information. As explained above, the EDEWS program relied heavily on assistance from state and local authorities, as well as direct communication with firms, to identify facilities potentially threatened by environmental regulations. Each EPA regional office had a staff member responsible for maintaining contacts with federal, state, and local environmental enforcement offices, as well as local departments of commerce; reading the local press; and serving as the regional point-of-contact for individual firms that contacted EPA regarding closures or plans to close. For each facility, the regional staff member collected the facility's name, location, and industry; the date (if known) of the closure or reduction in employment; the environmental regulation or enforcement action at issue; evidence in support of the firm's claims (e.g., abatement cost information); and any unique circumstances involved.

For EPA to implement a similar information-collection system today, either by directly soliciting information from firms or by indirectly obtaining information with the assistance of state and local entities, EPA must comply with the PRA.¹⁹ Generally, to comply with the PRA, EPA must seek public comment on proposed information collections and submit proposed information collections to OMB for review and approval. Any information collection request (“ICR”) submitted to OMB for review and approval must include a description of the collection and its intended use, as well as an estimate of the time and cost burdens the ICR will place on the public. 44 U.S.C. § 3506(c)(1)(a); 5 C.F.R. § 1320.8(b) & (c). The ICR may also include an information collection instrument (e.g., a form, survey, script, etc.) and supporting documentation that addresses matters like reporting frequency, the format of the electronic collection system, access issues, and CBI concerns. The ICR process requires two Federal Register notices. The first notice announces EPA’s plan to submit an ICR to OMB and solicits comments for a period of 60 days. 44 U.S.C. § 3506(c)(2)(a); 5 C.F.R. § 1320.8(d). The second notice announces that the ICR has been submitted to OMB and solicits comment for 30 days. 44 U.S.C. § 3507(a)(1)(D) & (b); 5 C.F.R. § 1320.10(a). OMB has 60 days from either the date on which the ICR is submitted for review or the date on which the second notice is published, whichever is later, to approve, disapprove, or require changes to the ICR. 44 U.S.C. § 3507(c)(2); 5 C.F.R. § 1320.10(b). The total ICR process takes approximately six to nine months from beginning to end.²⁰

¹⁹ Congress enacted the PRA in 1980, nine years after EPA and the Department of Labor started EDEWS, and substantially revised it in 1995.

²⁰ See Office of Info. & Regulatory Affairs, Office of Mgmt. & Budget, Exec. Office of the President, *Questions and Answers When Designing Surveys for Information Collections* 3 (Jan. 2006), https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/pmc_survey_guidance_2006.pdf

The second step in EPA's work plan is to develop a process for compiling and evaluating the information once it has been collected. In broad terms, this process will likely be similar to the one that EPA is using to conduct facility-level evaluations of coal mines and coal-fired power plants by the July deadline, except that the process will be ongoing and subject to improvements and adjustments over time. While EPA will continue to evaluate actual and potential closures and reductions in employment for the coal industry, EPA will also evaluate additional sectors in the economy that may be affected by Clean Air Act regulations and enforcement actions.²¹ EPA intends to compile the facility-level information necessary to conduct evaluations into a database and review the information for quality-control purposes. Finally, to the extent practicable, EPA will seek to address the serious analytical challenges and limitations associated with the EDEWS methodology by using a transparent process that effectively engages the public and outside experts.

The third step in EPA's work plan is to determine whether and how the Agency will disseminate the evaluations to the public. While Section 321(a) does not require EPA to disclose its evaluations to the public, EPA is nevertheless considering the feasibility and benefits of various options for public dissemination. As described above, EPA used the EDEWS to generate quarterly reports that were submitted to the Department of Labor and the Small Business Administration to aid those agencies in providing unemployment assistance and loans for abatement equipment, respectively. EPA also distributed copies of the quarterly reports to about

("A six month period, from the time the agency completes the ICR to OMB approval, is fairly common for planning purposes but varies considerably across agencies depending on internal review procedures.").

²¹ EPA notes that, while there is a relatively large amount of economic data regarding the coal-mining and electricity-generating sectors that is routinely generated and submitted to various federal, state, and local agencies, comparable data is not readily available for many other sectors subject to Clean Air Act regulation.

100 people outside the Agency, ranging from professors at universities, to companies on a mailing list, to other Federal agencies.²² The Council on Environmental Quality (“CEQ”) also included EDEWS information in several of its annual reports during the 1970s.²³ At this time, EPA has not determined whether any of these historical examples would be an appropriate way to disseminate evaluations today.

CONCLUSION

While reserving all rights and without prejudice to the EPA’s appeal of this Court’s Final Order, the EPA responds to the Final Order and submits, as directed, this Compliance Filing.

DATED: May 15, 2017

Respectfully Submitted,

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Acting Assistant Attorney General
U.S. Department of Justice
Environment & Natural Resources Division

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²² See Nat’l Comm’n on Supplies and Shortages, *Information Systems Studies* 401 (Dec. 1976), <https://babel.hathitrust.org/cgi/pt?id=uc1.31210024827345;view=1up;seq=415>.

²³ See Council on Env’tl. Quality, Exec. Office of the President, *Annual Environmental Quality Reports*, https://ceq.doe.gov/ceq-reports/annual_environmental_quality_reports.html (last visited May 15, 2017). In 1995, Congress eliminated the requirement that CEQ create and publish the annual reports to reduce paperwork in government. *See id.*

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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MURRAY ENERGY CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 5:14-CV-00039
)	Judge Bailey
SCOTT PRUITT, Administrator,)	
United States Environmental Protection Agency,)	
acting in his official capacity,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I, Erin Carter Tison, hereby certify that on this 15th day of May, 2017, the foregoing EPA's Filing in Compliance With This Court's January 11, 2017 Order was filed using the CM/ECF system, which will cause a copy to be served upon counsel of record.

/s/ Erin Carter Tison
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Congress of the United States
Washington, DC 20515

April 7, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Attorney General Sessions and Administrator Pruitt,

As you review the litigation that was pending on behalf of your agencies when you assumed office, we write to bring to your attention *Murray Energy Corp. v. McCarthy*, a case pending before the U.S. Court of Appeals for the Fourth Circuit.

The case centers on the EPA's obligation, as clearly established in the Clean Air Act (CAA), to continuously evaluate potential losses or shifts of employment resulting from administration or enforcement of the CAA. We agree with the U.S. District Court for the Northern District of West Virginia's sound interpretation of the law on this matter and respectfully urge you to withdraw the pending appeal. We are encouraged by prior stances that each of you have taken on this issue.

As you may recall, §321(a) of the Clean Air Act (42 U.S.C. § 7621(a)) provides:

The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this chapter and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement.

The EPA has construed this provision as a discretionary duty, disregarding the plain language of the law and the relevant legislative history. In fact, the EPA has never complied with this statutory requirement. As recently as 2009, Administrator Gina McCarthy asserted that the agency "has not interpreted CAA section 321 to require EPA to conduct employment investigations in taking regulatory actions" and that "[c]onducting such investigations as part of rulemakings would have limited utility."

On March 24, 2014, Murray Energy Corporation ("Murray") filed a civil action against the EPA, asserting that the EPA's refusal "to evaluate the impact that its actions are having on the American coal industry and the hundreds of thousands of people it directly or indirectly employs" is irreparably harming the plaintiffs.

On October 17, 2016, the District Court granted summary judgment in favor of Murray, ordering the EPA to fully comply with the requirements of § 321(a) and further noting that "it would be an abuse of discretion for the EPA to refuse to conduct a § 321(a) evaluation on the effects of its regulations on the coal industry.

The EPA's assertion that the § 321(a) provisions are discretionary or satisfied by EPA's compliance with other requirements flouts the plain language of the Clean Air Act. In effect, the EPA is seeking to selectively choose which laws to enforce. By refusing to carry out the law on this matter, the EPA is picking winners and losers in the economy. Its interpretation of this law results in a dereliction of the EPA's duty to examine the employment effects of regulations and the wholesale destruction of the copper mining, steel, textile, and coal mining industries.

Over the last four decades, these industries have borne the burden of increased regulatory mandates and costs. As Congress examines avenues for fostering economic growth, such as identifying the negative impacts of regulatory burdens on certain industries, it is imperative that the EPA interpret § 321(a) of the Clean Air Act at face value, without ignoring its clear obligations under federal law.

Should you decide to withdraw this appeal, the EPA's analysis of the costs of regulations will give lawmakers the tools and information needed to accurately examine the impact of the Clean Air Act on American jobs. We appreciate your consideration and look forward to your response on this matter.

Sincerely,

John Rochette

Seb Fisher

Bob Goodlatte

Paul A. Lujan, MS

Tom Marino

Mark Walker

Glenn Latham

Mike Kelly

Al. May Jr

Stuart Pence

Andy Biggs

Bruce W. Hedden

Tom Emmer

Jim Banks

Rick W. Allen

Roger W. Marshall

Jody Hice

Bill Pence

Harry Johnson

Bob Ditt

Steve Chalot

Bruce Cramer

Ted S. York

Richard Hudson

Jim Davis

Mike



Boyd Jenkins

to by

Dan Burt

Lynn Jenkins
Roger Whinnings

George Lamborn

My. lhr

Lamar Smith

Franklin Jensen

Randy K. Ambrose

Evan H. Jenkins

Ph. O. J.

Andy B.

Dan Ambrose

Luke Messer

Jeff. Lincan

Brett Guthrie

Pete Sessions

Ben Fournier

Austin Scott

[Signature]

John Chize^{no}

Robert Winter

James McLaughlin

Shelley Mone Caputo

Ben Sasse

Tom Catto

List of Signers

1. Representative John Ratcliffe
2. Senator Deb Fischer
3. Representative Bob Goodlatte
4. Representative Paul Gosar
5. Representative Tom Marino
6. Representative Mark Walker
7. Representative Glenn Grothman
8. Representative Mike Kelly
9. Representative H. Morgan Griffith
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35. Representative Lynn Jenkins
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38. Representative Dan Newhouse
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41. Representative Doug Collins
42. Representative Jeff Duncan
43. Representative Lamar Smith

44. Representative Brett Guthrie
45. Representative Pete Sessions
46. Representative Bill Flores
47. Representative Austin Scott
48. Representative Scott DesJarlais
49. Representative Michael Burgess
50. Senator Roger Wicker
51. Senator James Inhofe
52. Senator Shelley Moore Capito
53. Senator Ben Sasse
54. Senator Tom Cotton



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 23 2016

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable K. Michael Conaway
Chairman
Committee on Agriculture
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing today to supplement the U.S. Environmental Protection Agency's responses of May 2, August 4, and November 7, to your letter of April 12, 2016, in which you request certain documents regarding the EPA's cooperative agreement with the Northwest Indian Fisheries Commission (NWIFC) and a sub-award made under the cooperative agreement by NWIFC to the Swinomish Indian Tribal Community for a "Non-Point Pollution Public Information and Education Initiative."

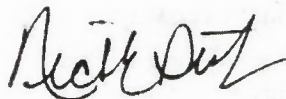
Enclosed is an additional production of responsive documents. Please note that portions of your request examine internal deliberations of an Executive Branch agency, the EPA, and, as such, raise a confidentiality interest. In order to identify specific documents in which the EPA has a confidentiality interest, we have added a watermark to these documents that reads "Internal Deliberative Document of the U.S. Environmental Protection Agency; Disclosure Authorized Only to Congress for Oversight Purposes." Through this accommodation, the EPA does not waive any confidentiality interests in these documents or similar documents in other circumstances. The EPA respectfully requests that the Committee and staff protect the documents and the information contained in them from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this confidential information outside the Committee, we request that such need first be discussed with the agency to help ensure the Executive Branch's confidentiality interests are protected to the fullest extent possible.

You will also notice that some of the documents contain redactions of non-responsive or non-substantive material, such as personal privacy information. We redacted this information in a manner that does not obscure the identity of any individuals involved in the relevant communications.

The EPA recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions, and is committed to continuing to work with your staff on how best to accommodate the Committee's interests in these documents. We anticipate providing additional responsive documents on a rolling basis.

Again, thank you for your letter. If you have any further questions, you may contact me or your staff may contact Kyle Aarons in my office at aarons.kyle@epa.gov or (202) 564-7251.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Distefano". The signature is fluid and cursive, with the first name "Nichole" being more prominent than the last name "Distefano".

Nichole Distefano
Associate Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 07 2016

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable K. Michael Conaway
Chairman
Committee on Agriculture
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing today to supplement the U.S. Environmental Protection Agency's responses of May 2, and August 4, to your letter of April 12, 2016, in which you request certain documents regarding the EPA's cooperative agreement with the Northwest Indian Fisheries Commission (NWIFC) and a sub-award made under the cooperative agreement by NWIFC to the Swinomish Indian Tribal Community for a "Non-Point Pollution Public Information and Education Initiative."

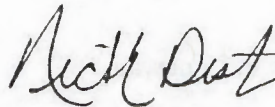
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Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Distefano".

Nichole Distefano
Associate Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 04 2016

OFFICE OF
CONGRESSIONAL AND
INTERGOVERNMENTAL
RELATIONS

The Honorable K. Michael Conaway
Chairman
Committee on Agriculture
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing today to supplement the U.S. Environmental Protection Agency's response of May 2, 2016, to your letter of April 12, 2016, regarding the EPA's cooperative agreement with the Northwest Indian Fisheries Commission and a sub-award made under the cooperative agreement by NWIFC to the Swinomish Indian Tribal Community for a "Non-Point Pollution Public Information and Education Initiative."

Enclosed with this letter is a production of documents responsive to your request. You will notice that some of the documents contain redactions of personal privacy information. We redacted this information in a manner that does not obscure the identity of any EPA employees involved in the relevant communications. The personal privacy redactions are labeled as "(b)(6)" only because these documents were collected in the context of a FOIA request; while preparing these documents for delivery to you today, we took off other FOIA redactions.

The EPA recognizes the importance of the Committee's need to obtain information necessary to perform its legitimate oversight functions, and is committed to continuing to work with your staff on how best to accommodate the Committee's interests in these documents. We anticipate providing additional responsive documents on a rolling basis.

Again, thank you for your letter. If you have any further questions, you may contact me or your staff may contact Kyle Aarons in my office at aarons.kyle@epa.gov or (202) 564-7251.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Distefano", is written over a horizontal line.

Nichole Distefano
Associate Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF THE REGIONAL
ADMINISTRATOR

JUN 23 2016

The Honorable Dan Newhouse
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Brad Ashford
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Newhouse and Representative Ashford:

Thank you for your April 20, 2016, letter to United States Environmental Protection Agency Administrator Gina McCarthy regarding the EPA's Cooperative Agreement with the Northwest Indian Fisheries Commission and a sub-award made under that Cooperative Agreement by NWIFC to the Swinomish Indian Tribal Community for a "Non-Point Pollution Public Information and Education Initiative." The Administrator asked that I respond on her behalf.

The EPA places a high value on collaboration with our partners in the agricultural and tribal communities. We are particularly proud of the work we've done in the Pacific Northwest with the agriculture community and the tribes in seeking -- and frequently finding -- common ground on issues such as water quality monitoring, scientific research and uplands restoration projects.

Puget Sound in northwest Washington is an estuary of national significance under the U.S. Clean Water Act National Estuary Program. The EPA provides expertise and financial assistance to state, local and tribal governments to support research and restoration projects that help implement the State of Washington's Puget Sound Action Agenda. This Action Agenda serves as the state's Comprehensive Conservation and Management Plan required under the Clean Water Act National Estuary Program.

In support of the Action Agenda, EPA Region 10 awarded a cooperative agreement to the NWIFC in 2010, to support the work of 21 federally recognized Puget Sound tribes and tribal consortia who implement protection and restoration projects consistent with the Puget Sound Action Agenda. The Swinomish Tribe is one of the sub-recipients and, accordingly, received annual incremental funding for an education and outreach project focused on the critical need to reduce non-point source water pollution to protect Puget Sound water quality and critical salmon habitat. Four Pacific salmon species in Puget Sound are listed as threatened under the Endangered Species Act, in turn threatening the treaty-reserved rights of many Puget Sound tribes to harvest this natural resource so central to their communities, economies, and cultures.

The Swinomish Tribe's project included building a public information and awareness website. The EPA engaged with the Commission and the Swinomish Tribe over the past five years to discuss proposed annual work plans and some specific tasks such as the website. EPA has provided technical assistance and coordination in the form of comments and recommendations. However, a cooperative agreement is fundamentally different from a contract and the EPA does not have the ability to direct the content of the

work product of a grantee or sub-recipient in the same manner as a contractor. In addition, under the terms of the cooperative agreement, the Commission has the responsibility of monitoring sub-recipients' performance and ensuring compliance with applicable terms and conditions, regulations, and statutes. The EPA's involvement in the sub-recipient's project has focused on providing technical input during routine proposal reviews and flagging potential areas of non-compliance with grant terms and conditions, laws, regulations and policies. For example, the EPA has provided advice to the Commission and the Swinomish Tribe regarding the lobbying restrictions applicable to grants.

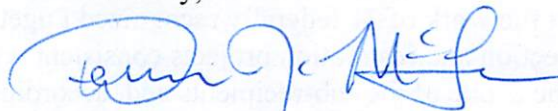
The EPA takes the concerns that have been expressed by members of Congress and other parties very seriously. In an April 18, 2016, letter (enclosed), the EPA asked the Commission to suspend all expenditures under the sub-award to the Swinomish Tribe and requested the Commission conduct a review of its sub-award to the Tribe. During a meeting on April 25, 2016, the Commission confirmed that all advertising related to the sub-award had stopped, and costs related to billboards have not and will not be paid with funding Congress appropriates to the EPA. The Commission is continuing its assessment of the sub-award in relationship to EPA grant policies, terms, and conditions, and will be setting up a meeting between the EPA, the Commission, and the Swinomish Tribe to review the results.

I want to assure you that collaboration with our partners in the agricultural community is of great importance to the EPA. To exemplify our efforts regarding work with the agricultural community, in the past three years over \$12 million of EPA funds have been used to support collaboration with agriculture partners in Puget Sound to restore and protect riparian habitat and to reduce non-point source pollution.

The 2014 OIG report cited in your letter concluded, "...that EPA Region 10 is effectively administering cooperative agreements and monitoring project progress to determine whether proposed outputs and outcomes were achieved" (OIG, Report 14-P-0317, At a Glance, July 15, 2014). The OIG provided several *recommendations*, which EPA has addressed. We continue to provide strong oversight of the grants funded through the Puget Sound program.

Again, thank you for your interest in the EPA's grant activities. If you have any further questions, please contact me, or your staff may contact Kyle Aarons, in the EPA's Office of Congressional and Intergovernmental Relations at aarons.kyle@epa.gov or (202) 564-7351.

Sincerely,



Dennis J. McLerran
Regional Administrator

Enclosure

Congress of the United States
Washington, DC 20515

April 20, 2016

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Dear Administrator McCarthy,

We write to you today to express our extreme concern with the Environmental Protection Agency (EPA) Region 10 funded whatsupstream.com website and campaign, which recently has come to our attention. While we appreciate EPA's recent admission that wrongdoing occurred and that the campaign should never have been federally funded,¹ we are still confused why EPA would have approved an award clearly violating a number of federal laws pertaining to funding propaganda, advocacy, and lobbying efforts. We find this revelation particularly disturbing, as it follows closely to both the EPA Office of Inspector General (OIG) questioning of Region 10's award monitoring and a December 2015 Government Accountability Office (GAO) report that found EPA had committed similar violations on social media advocacy campaigns supporting EPA's Waters of the United States (WOTUS) regulation (also known as the "Clean Water Rule").

As you are no doubt aware, federal law clearly directs that, "No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress."² Further restrictions clearly prohibit federal funds being used for many of the advocacy and publicity materials used by the whatsupstream.com campaign, including publications, radio, and electronic communications.³ Despite this stark prohibition, the website whatsupstream.com has a button at the top of its site directing visitors to, "Take Action! We've made it simple." This button loads auto-generated text that will be sent to the visitor's respective Washington State legislators, urging the legislators to support, "stronger laws protecting the health of our water resources in Washington," by encouraging, "100-foot natural buffers between agriculture lands and streams." Additionally this site asserts that, "state government must hold the agricultural industry to the same level of responsibility as other industries...." To be clear, whatsupstream.com has a disclaimer at the bottom of its website stating, "This project has been funded wholly or in part by the United States Environmental Protection Agency." Based on our review of EPA Puget Sound Financial and Ecosystem Accounting Tracking System (FEATS) project reports, it appears that this campaign has been wholly funded by the EPA with no matching funds provided by any private or state and local government entities.⁴

Currently, the Washington State Department of Ecology is in the process of renewing the requirements for its National Pollutant Discharge Elimination System (NPDES) permits for Concentrated Animal Feeding Operations (CAFOs). The Washington State legislature has also considered other water quality and agricultural related legislation during this same time period. These state regulatory and legislative initiatives were pending and under consideration during the same time of the lobbying efforts funded by EPA.

¹ Don Jenkins, *Capital Press*, April 5, 2016, http://www.capitalpress.com/Nation_World/Nation/20160405/epas-reversal-on-whats-upstream-rings-hollow-to-ag-groups

² *Consolidated and Furthering Continuing Appropriations Act, 2013*, Public Law 113-6, 127 Stat. 269 (2013)

³ *Consolidated Appropriations Act, 2014*, Public Law 113-76, 128 Stat. 408 (2014)

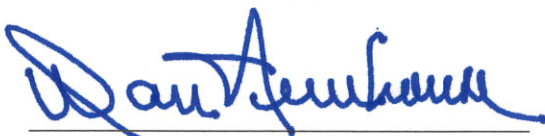
⁴ EPA Puget Sound Financial and Ecosystem Accounting Tracking Systems, PA-00J322-01, September 30, 2015, <http://blogs.nwifc.org/psp/files/2016/02/Swinomish-FY12-4.1.15-9.30.15.pdf>

What is more disturbing is that a July 14, 2014 report by the EPA's OIG found that Region 10 EPA project officers, "emphasized overall progress rather than compliance with specific subaward requirements. This emphasis on overall progress increased the risk that project officers would not detect issues needing corrective action that might impact the project meeting its goals." The report also found that of a sample of ten different EPA subawards, only three had protocols in place to ensure 501(c)(4) subaward recipients did not engage in lobbying activities.⁵ Despite these warning signs, an October 30, 2015 EPA Region 10 FEATS report pertaining to the whatsupstream.com project concluded that, "As a result of extensive review and engagement by EPA, we have been revising the website, and have to [sic] restarted media outreach."⁶ This conclusion would seem to suggest that, even in spite of OIG's report, EPA reviewed, engaged, and approved of the current whatsupstream.com website that is in blatant violation of federal law.

As mentioned, on December 14, 2015, GAO issued an opinion finding that EPA violated propaganda and anti-lobbying laws by using certain social media platforms in association with the WOTUS regulation. By obligating and expending appropriated funds in violation of specific prohibitions contained in appropriations acts for fiscal years 2014 and 2015, GAO found EPA also violated the *Antideficiency Act*.⁷ The whatsupstream.com campaign appears to be part of an alarming trend where EPA engages in funding advocacy efforts against the very entities it is seeking to regulate. EPA cannot systematically choose when it wishes to follow the law and when it does not. Congress has made it explicitly clear that EPA's funding may not be used, "for publicity or propaganda purposes designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government."⁸

We are aware that Senators Inhofe and Roberts recently sent a letter to the EPA OIG requesting an official audit and investigation into the whatsupstream.com campaign and related activities, and the House Committee on Agriculture is conducting a related oversight investigation of EPA grant management. We fully support these requests, and strongly advise EPA's full and swift cooperation with all investigations and imminent oversight inquiries into this matter.

Sincerely,



Dan Newhouse
Member of Congress




Brad Ashford
Member of Congress

⁵ Collins, Eileen et al., *EPA Should Improve Oversight and Assure the Environmental Results of the Puget Sound Cooperative Agreements* (EPA OIG Report No. 14-P-0317) (Washington, DC: Environmental Protection Agency Office of Inspector General, 2014), 8, <https://www.epa.gov/sites/production/files/2015-09/documents/20140715-14-p-0317.pdf>

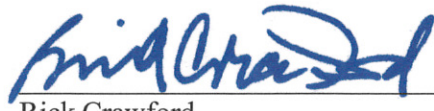
⁶ EPA Puget Sound Financial and Ecosystem Accounting Tracking Systems, PA-00J322-01, October 30, 2015, <http://blogs.nwifc.org/psp/files/2016/02/Swinomish-FY13-4.1.15-9.30.15.pdf>

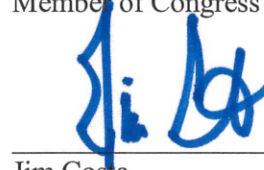
⁷ Poling, Susan A., *Environmental Protection Agency--Application of Publicity or Propaganda and Anti-Lobbying Provisions* (B-326944) (Washington, DC: U.S. Government Accountability Office, 2015), <http://www.gao.gov/assets/680/674163.pdf>


⁸ *Consolidated and Further Continuing Appropriations Act, 2015*, Public Law 113-235, 128 Stat. 2393 (2014)



Mike Conaway
Member of Congress


Collin C. Peterson
Member of Congress


Rick Crawford
Member of Congress

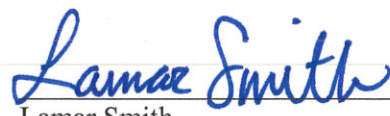

Jim Costa
Member of Congress

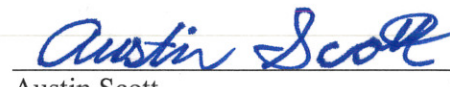

Bob Gibbs
Member of Congress


Frank D. Lucas
Member of Congress


Bob Goodlatte
Member of Congress

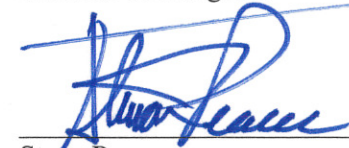

Doug Lamborn
Member of Congress


Lamar Smith
Member of Congress


Austin Scott
Member of Congress


Mick Mulvaney
Member of Congress

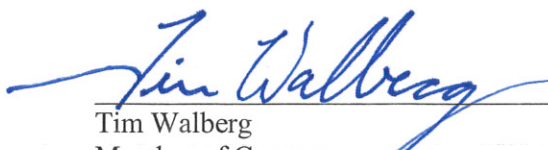

Kristi Noem
Member of Congress



Steve Pearce
Member of Congress



Cynthia Lummis
Member of Congress


Brett Guthrie
Member of Congress


Trent Franks
Member of Congress



Tim Walberg
Member of Congress


Tom Reed
Member of Congress



Blaine Luetkemeyer
Member of Congress



Tom Graves
Member of Congress


Robert E. Latta
Member of Congress

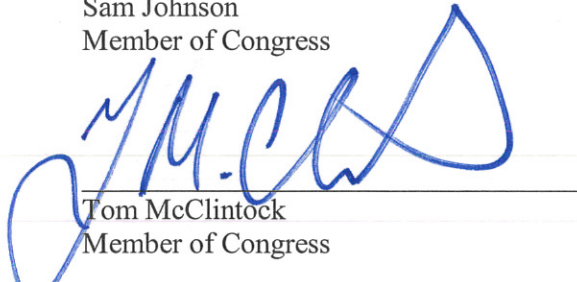

Stephen Fincher
Member of Congress



Darin LaHood
Member of Congress



Dana Rohrabacher
Member of Congress


Sam Johnson
Member of Congress

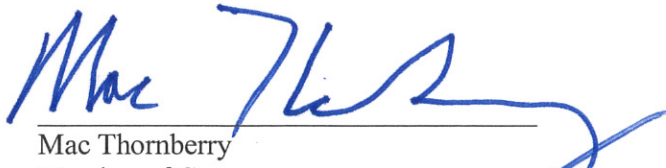

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Member of Congress


Tom McClintock
Member of Congress

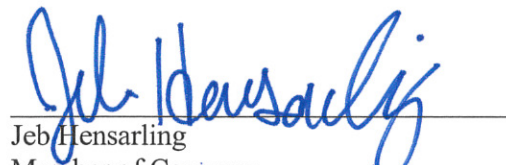

Tim Murphy
Member of Congress

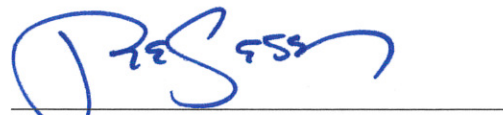

Walter B. Jones
Member of Congress


Steve Chabot
Member of Congress



Mac Thornberry
Member of Congress


Steve King
Member of Congress


Jeb Hensarling
Member of Congress

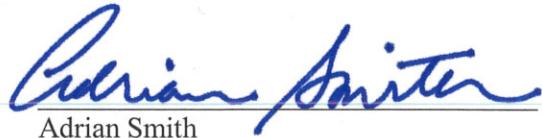

Pete Sessions
Member of Congress


Vicky Hartzler
Member of Congress


Jason Chaffetz
Member of Congress



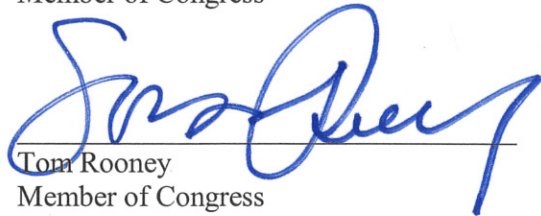
Michael R. Turner
Member of Congress



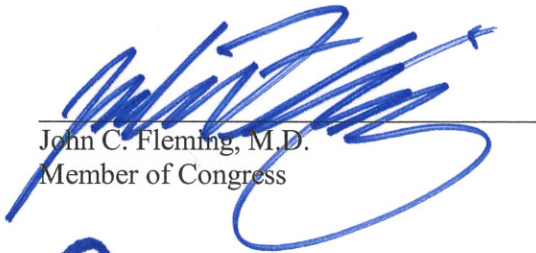
Adrian Smith
Member of Congress



Marsha Blackburn
Member of Congress



Tom Rooney
Member of Congress



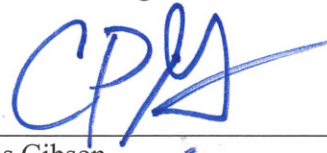
John C. Fleming, M.D.
Member of Congress



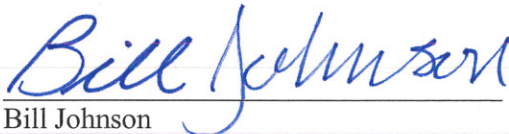
Ed Whitfield
Member of Congress



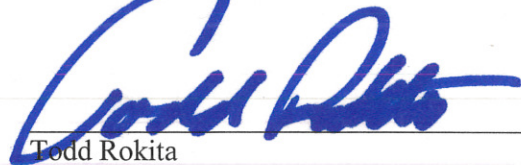
Greg Walden
Member of Congress



Chris Gibson
Member of Congress



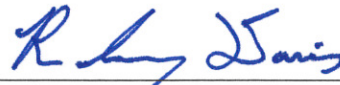
Bill Johnson
Member of Congress



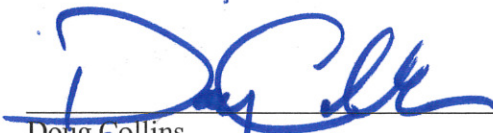
Todd Rokita
Member of Congress



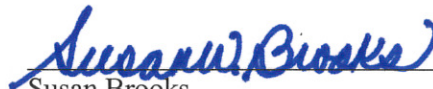
Dave Trott
Member of Congress



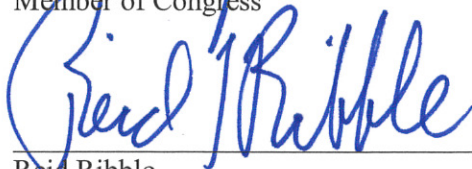
Rodney Davis
Member of Congress



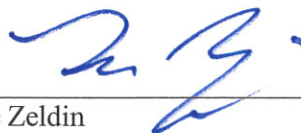
Doug Collins
Member of Congress



Susan Brooks
Member of Congress



Reid Ribble
Member of Congress



Lee Zeldin
Member of Congress



Mike Kelly
Member of Congress



Jim Jordan
Member of Congress

Raúl R. Labrador

Raúl R. Labrador
Member of Congress

Lynn Jenkins

Lynn Jenkins
Member of Congress

Billy Long

Billy Long
Member of Congress

Sam Graves

Sam Graves
Member of Congress

Randy Neugebauer

Randy Neugebauer
Member of Congress

Charles Boustany

Charles Boustany
Member of Congress

Andy Barr

Andy Barr
Member of Congress

Mike Bost

Mike Bost
Member of Congress

Brad R. Wenstrup

Brad Wenstrup
Member of Congress

Keith Rothfus

Keith Rothfus
Member of Congress

Sean Duffy

Sean Duffy
Member of Congress

Renee Ellmers

Renee Ellmers
Member of Congress

French Hill

French Hill
Member of Congress

Mo Brooks

Mo Brooks
Member of Congress

Morgan Griffith

Morgan Griffith
Member of Congress

Tim Huelskamp


Tim Huelskamp
Member of Congress

Markwayne Mullin

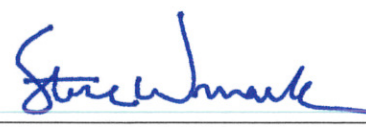
Markwayne Mullin
Member of Congress

Chris Collins

Chris Collins
Member of Congress



Jason Smith
Member of Congress



Steve Womack
Member of Congress



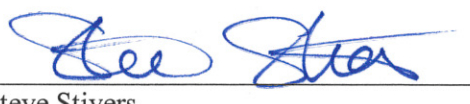
Jaime Herrera Beutler
Member of Congress



David G. Valadao
Member of Congress



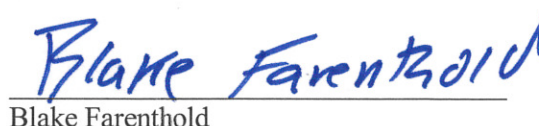
Devin Nunes
Member of Congress




Steve Stivers
Member of Congress



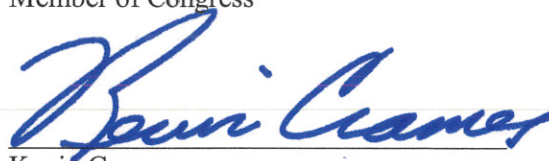
Mark Meadows
Member of Congress



Blake Farenthold
Member of Congress




Martha McSally
Member of Congress



Kevin Cramer
Member of Congress




Glenn Grothman
Member of Congress



Evan Jenkins
Member of Congress



Tom Emmer
Member of Congress



Paul Gosar, D.D.S.
Member of Congress



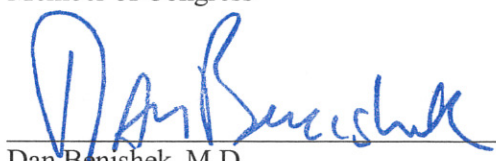
Luke Messer
Member of Congress



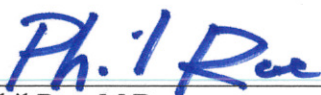
Randy Weber
Member of Congress



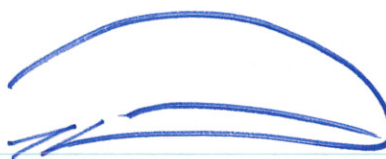
Ted S. Yoho, DVM
Member of Congress



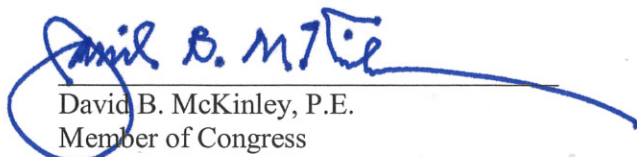
Dan Benishek, M.D.
Member of Congress



Phil Roe, M.D.
Member of Congress



Scott DesJarlais, M.D.
Member of Congress



David B. McKinley, P.E.
Member of Congress



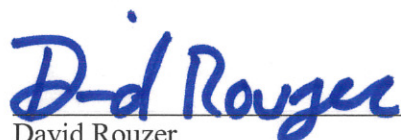
Ken Buck
Member of Congress



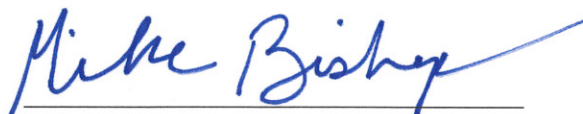
Ralph Abraham, M.D.
Member of Congress



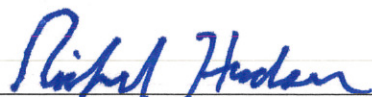
Jackie Walorski
Member of Congress



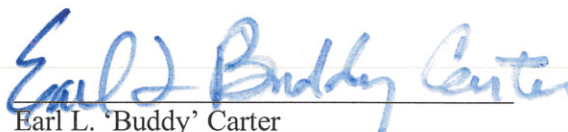
David Rouzer
Member of Congress



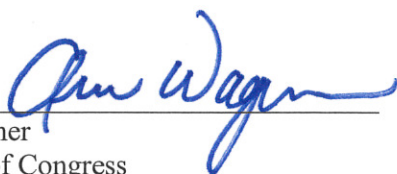
Mike Bishop
Member of Congress



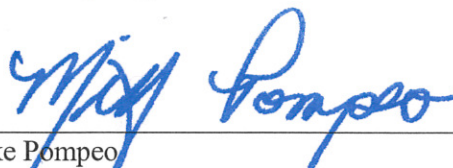
Richard Hudson
Member of Congress



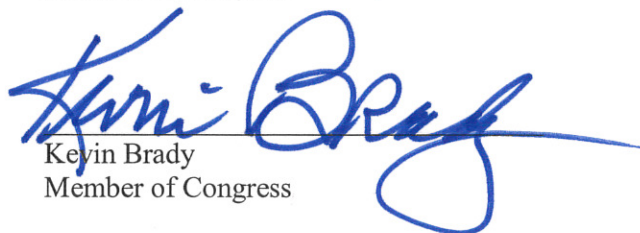
Earl L. 'Buddy' Carter
Member of Congress



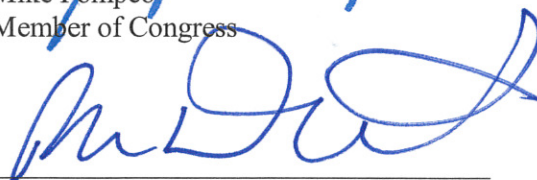
Ann Wagner
Member of Congress



Mike Pompeo
Member of Congress



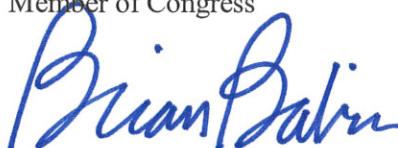
Kevin Brady
Member of Congress



Ron DeSantis
Member of Congress



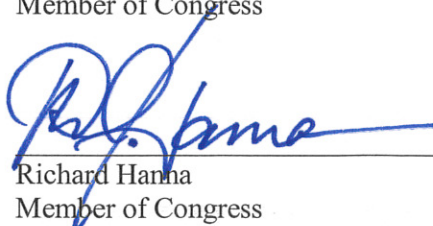
Mark Walker
Member of Congress



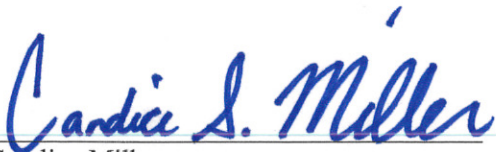
Brian Babin
Member of Congress



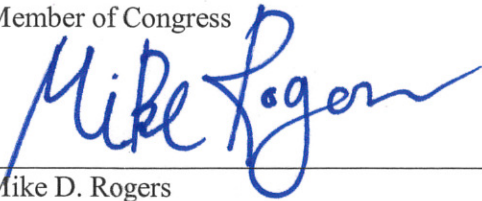
Will Hurd
Member of Congress



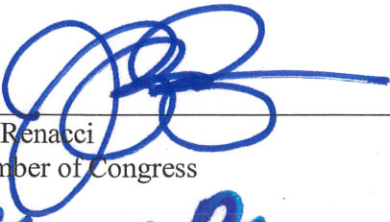
Richard Hanna
Member of Congress



Candice Miller
Member of Congress



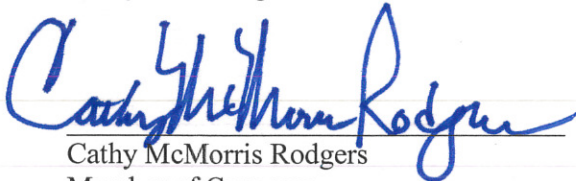
Mike D. Rogers
Member of Congress



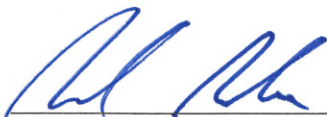
Jim Renacci
Member of Congress



Steven Palazzo
Member of Congress



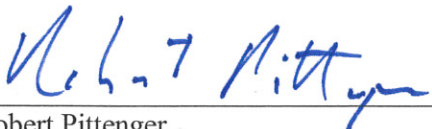
Cathy McMorris Rodgers
Member of Congress



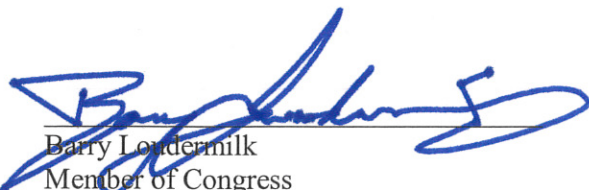
Rod Blum
Member of Congress



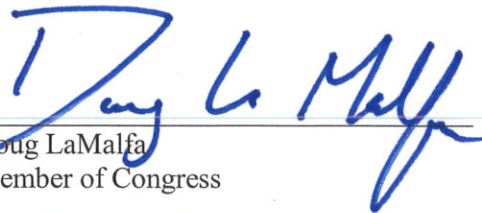
Jim Bridenstine
Member of Congress



Robert Pittenger
Member of Congress



Barry Lundermilk
Member of Congress



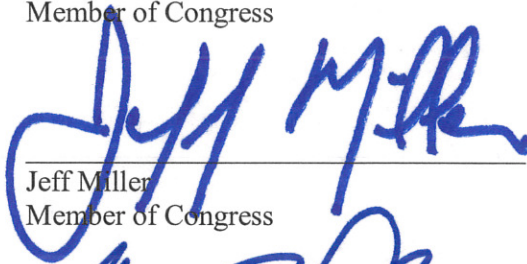
Doug LaMalfa
Member of Congress



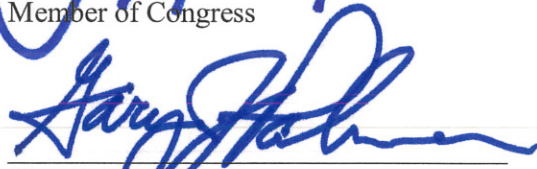
John Ratcliffe
Member of Congress



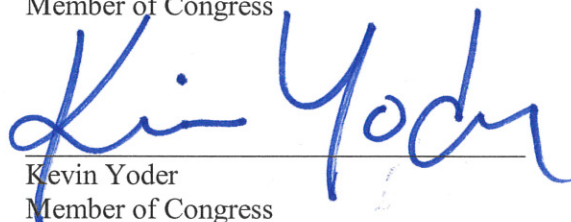
Dave Brat
Member of Congress



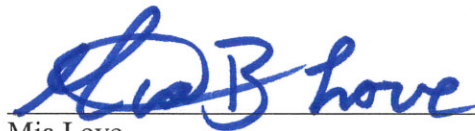
Jeff Miller
Member of Congress



Gary Palmer
Member of Congress



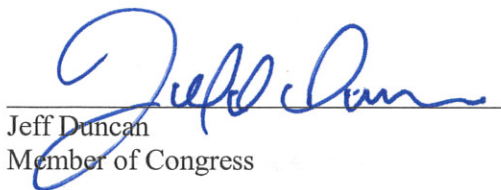
Kevin Yoder
Member of Congress



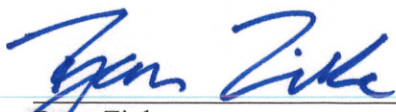
Mia Love
Member of Congress



Mimi Walters
Member of Congress



Jeff Duncan
Member of Congress



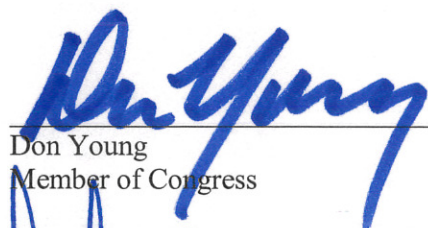
Ryan Zinke
Member of Congress



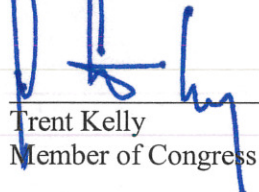
Bradley Byrne
Member of Congress



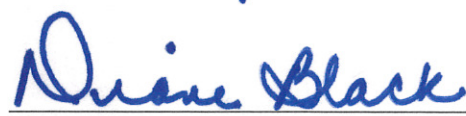
Glenn 'GT' Thompson
Member of Congress



Don Young
Member of Congress



Trent Kelly
Member of Congress



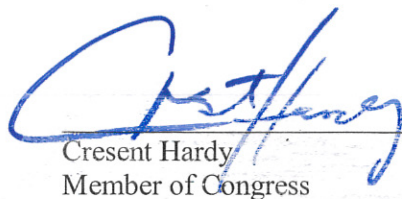
Diane Black
Member of Congress




Jeff Denham
Member of Congress



Dave Reichert
Member of Congress



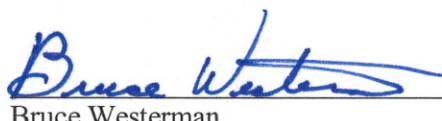
Crescent Hardy
Member of Congress



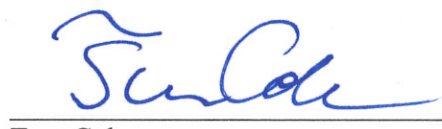
John Moolenaar
Member of Congress



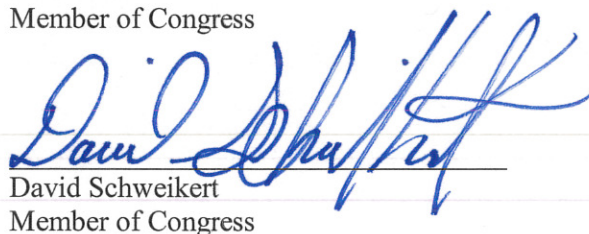
Bill Posey
Member of Congress



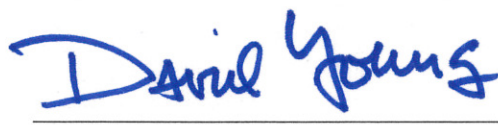
Bruce Westerman
Member of Congress



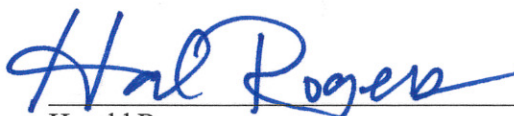
Tom Cole
Member of Congress



David Schweikert
Member of Congress



David Young
Member of Congress



Harold Rogers
Member of Congress



Bill Flores
Member of Congress

cc: Mr. Gene Dodaro, Comptroller General, U.S. Government Accountability Office
Mr. Arthur Elkins, Jr., Inspector General, Environmental Protection Agency

Congress of the United States
House of Representatives
Washington, DC 20515-4803

March 23, 2017

Acting Associate Administrator for Congressional
and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 WJC
Washington, DC 20460

Dear Acting Associate Administrator:

For a number of years, the owners of the future Buffalo Mountain surface mine site in southern West Virginia, have been working with various federal agencies for the permitting needed to open this mine.

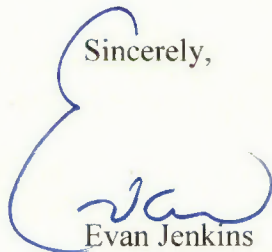
The opening of this mine would create not only coal jobs for this economically depressed region but open up economic development opportunities as well. It is my understanding that after mining operations have concluded in a portion of the site, the owner plans to turn the land over for construction of a new segment of the long-awaited King Coal Highway.

The development of this mine – and thus, land for the King Coal Highway – is vital for economic development in the coalfields of southern West Virginia. The highway will connect remote parts of the state, opening them up to new development opportunities.

I would like to request the attendance of representatives from the Environmental Protection Agency to meet with me on April 25 in Washington, D.C., for an update on the status of this vital project. Invitations will also be extended to the Federal Highway Administration, U.S. Army Corps of Engineers, and state agencies and stakeholders to join us for this meeting.

To discuss this meeting further, please contact my legislative director, Brian Barnard, by phone at 202-225-3452 or by email at brian.barnard@mail.house.gov. I look forward to your response and a productive discussion on this critical project for West Virginia.

Sincerely,



Evan Jenkins
Member of Congress

OFFICE MISSION

"To ensure the people of the Third Congressional District of West Virginia have the greatest opportunity to live free and prosperous lives by serving, communicating, protecting and representing them in a professional and caring manner."

EVAN H. JENKINS
THIRD DISTRICT, WEST VIRGINIA

COMMITTEE ON APPROPRIATIONS

evanjenkins.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-4803

April 27, 2017

1609 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3452

845 FIFTH AVENUE
SUITE 314
HUNTINGTON, WV 25701
(304) 622-2201

307 PRINCE STREET
BECKLEY, WV 25801
(304) 250-6177

601 FEDERAL STREET, SUITE 1003
BLUEFIELD, WV 24701
(304) 325-6800

Mr. Aaron Ringel
Deputy Associate Administrator for Congressional Affairs
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 WJC
Washington, DC 20460

Dear Mr. Ringel:

Thank you for your participation in our King Coal Highway stakeholder status meeting this week. As you are well aware, the King Coal Highway is a key transportation initiative representing hope and opportunity for southern West Virginia. It would be difficult to overstate the importance of getting this project completed.

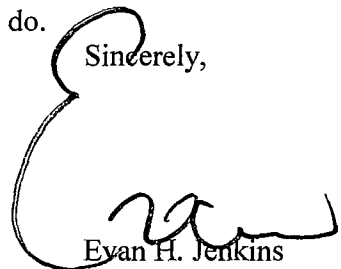
The Buffalo Mountain site, in particular, is a critical segment of the corridor that would be constructed at reduced cost to taxpayers due to its unique public-private partnership. The economic benefits, including thousands of direct and indirect jobs, increased state and county revenue, and construction of hundreds of acres of developable land for future economic diversification, would provide a shot in the arm for our hard-hit coal communities.

I want to especially thank you for taking the time to coordinate and participate in this meeting. I know that you have to address many other priorities, and I believe your attendance sent a strong signal to our stakeholders that the EPA is committed to King Coal Highway's success. It was undeniable that there is a new outlook at the agency, and I am very appreciative of Administrator Pruitt's support.

My takeaway from the meeting is that every entity – federal, state, local, and commercial – is engaged and committed to getting King Coal Highway back on track. I will continue to work in good faith to bring all of our partners together to collaborate in a constructive manner and move ahead with this roadway. I look forward to turning the productive dialogue that we established into direct action on King Coal Highway. Rest assured, I am available at your convenience if I can ever be of service or assistance in this matter.

Thanks again for all you do.

Sincerely,



Evan H. Jenkins
Member of Congress
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